Mayme S. Whittaker

Presented by Mrs. Buxton

SELECT CHARTERS

AND OTHER ILLUSTRATIONS

OF

ENGLISH CONSTITUTIONAL HISTORY

FROM THE EARLIEST TIMES

TO THE REIGN OF EDWARD THE FIRST

ARRANGED AND EDITED

BY

WILLIAM STUBBS

NINTH EDITION REVISED THROUGHOUT

BY

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PREFACE TO THE NINTH EDITION

MANY changes have been made in the present edition of Stubbs's Charters. It is hoped that they will not be thought gratuitous, or disrespectful to the memory of a great scholar. The editor has not relied solely upon his own judgement. He has benefited by the advice of many friends who, whether as students or as teachers, may claim to speak with authority on the merits and defects of the original work. The first edition appeared in 1870, before the first volume of the Constitutional History. Seven more editions were published in the lifetime of Stubbs, and two of these were slightly revised by himself. But further revision has become necessary. Even the eighth edition, published in 1895, quotes many documents from inferior editions, and contains observations which, as Stubbs would be the first to admit, no longer represent the best opinions. The translations of Anglo-Saxon and French texts, which Stubbs borrowed from the works of scholars much inferior to himself, are notoriously inaccurate; the glossary is incomplete and sometimes misleading.

The first duty, therefore, of the editor has been to make those changes which Stubbs himself could not have failed to make, if he had been at leisure to review his own work page by page. The chroniclers are now cited from the standard texts, usually those of the Rolls Series. For the Anglo-Saxon laws (now quoted in the original language), and for the Anglo-Norman law-books and charters, the monumental edition of Professor Liebermann has been used. In the passages given from the *Dialogus de Scaccario* the text of Messrs. Crump, Hughes, and Johnson has been followed. The editor is also under many obligations to M. Bémont, the editor of the *Chartes des Libertés anglaises*. In default of critical editions of Glanvill and Bracton, the editor has

used good manuscripts of these writers. Many minor improvements of a textual kind will be found in other parts of the collection; the translations have been carefully corrected; the glossary has been enlarged. In dealing with the general introduction, and the prefatory notes, the editor has refrained, as far as possible, from altering the *ipsissima verba* of Stubbs. He has corrected statements which the researches of forty years have disproved; but these are wonderfully few in number. He has added some footnotes referring to more recent literature; and he has occasionally inserted a few sentences where his experience as a teacher suggested that further explanations would be useful to the student.

One class of changes, however, calls for further explanation. This edition omits about a hundred pages of the original authorities, as given in the edition of 1895; and it adds about forty pages of new material. These changes have been made to bring the book into line with the trend of modern studies. The antiquities of the Exchequer and the Assizes of Watch and Ward, to take only two examples, were illustrated at excessive length in the original work. Much of the *Dialogus* has been omitted, with the less compunction since a modern edition is now available; and the number of the documents illustrating the details of thirteenth-century administration has been reduced. Only a few passages from that curious *jeu d'esprit*, the *Modus Tenendi Parliamentum*, have been allowed to stand, since the disparaging estimate of Stubbs has been more than confirmed by later criticism. On the other hand more prominence has been given to town charters, to laws and to law-books. In particular a small selection of passages from Bracton has been added; and extracts are given from laws of Edward I which Stubbs unaccountably passed over. A few documents discovered since 1873 have also been inserted; for example the summons of the Third Estate to the first parliament of Edward I, and

some specimens from the store of new material which we owe to Mr. Round and his fellow workers in the field of Anglo-Norman history. But the aim of the editor has been to introduce only such new material as seems intrinsically important.

The thanks of the editor are due in a special measure to Mr. Ernest Barker of New College, to Mr. Frank Morgan of Keble College, to Mr. W. H. Stevenson of St. John's College, Oxford, and to Professor Tait of the University of Manchester, for valuable suggestions and assistance.

H. W. C. DAVIS.

Aug. 22, 1913.

I am indebted to Mr. J. G. Edwards of Jesus College for pointing out a number of errata which have now been corrected.

H. W. C. DAVIS.

Jan. 25, 1921.

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PREFACE TO THE FIRST EDITION

This book is intended to be primarily a treasury of reference; an easily handled repertory of the *Origines* of English Constitutional History; and, secondarily, a manual for teachers and scholars. With a view to the first purpose, I have tried to collect in it every constitutional document of importance during the period that it covers. With a view to the second, I have attempted by way of illustration to point out the bearings of the several documents on one another and on the national polity; supplying in the Introductory Sketch a string of connexion and some sort of continuous theory of the development of the system.

The study of Constitutional History is essentially a tracing of causes and consequences; the examination of a distinct growth from a well-defined germ to full maturity: a growth, the particular direction and shaping of which are due to a diversity of causes, but whose life and developing power lies deep in the very nature of the people. It is not then the collection of a multitude of facts and views, but the piecing of the links of a perfect chain. And in this comparatively complete and intelligible connexion of cause and consequence, it has a certain charm that makes up for the default of everything depending on the play of personal character, the unlooked-for and the picturesque.

It is of the greatest importance that this study should become a recognized part of a regular English education. No knowledge of English history can be really sound without it: it is not creditable to us as an educated people that while our students are well acquainted with the state machinery of Athens and Rome, they should be ignorant of the corresponding institutions of our own forefathers: institutions that possess a living interest for every nation that realizes its

identity, and have exercised on the wellbeing of the civilized world an influence not inferior certainly to that of the Classical nations.

I have pointed out in the introductory chapter my reasons for not going further than the reign of Edward I. The later history is rather a history of politics than of polity, and has to be illustrated by a very different sort of documents. A more consistent supplement or companion to this volume would be a comparative assortment of corresponding *Origines* of the other constitutions of Europe. This is a branch of study without which the student cannot fully realize either the peculiar characteristics of his own national polity, or the deep and wide basis which it has in common with those of the modern nations of the Continent. To have furnished however in this volume, even the bare texts of the chief constitutional monuments of France, Germany, Spain, Italy, and Scandinavia, would have obliged me to alter the plan altogether ; nor could the comparative Constitutional History of Europe be illustrated at all thoroughly on the same scale.

For the present, I commend this little book to the good offices of teachers, and to the tender mercies of pupils, in the firm conviction that the subject it illustrates is of the first educational importance, and in the hope that the plan and line of study which it suggests will be found well calculated to draw out the mind, and to extend the area of sound teaching.

OXFORD,
October 7, 1870.

PREFACE TO THE EIGHTH EDITION

THE demand for a new edition of this book justifies me, I trust, in believing that it has been found useful to students of English Constitutional History, and in hoping that it will continue to be so. In preparing it for the press, I have thought it well to make some small modifications in the ' terminology ' of the earlier part, and to get rid of a few expressions which belong more properly to French and German History. Some of these, useful enough in a comparative survey, are not directly appropriate to English customs or institutions, which, although nearly if not quite identical with those of the Continent, have never, in contemporary documents, borne the same designations. The use of these terms, accordingly, leads occasionally to the misconceived notion, that customs which are either matter of common primitive origin, or of independent analogous development from common origin, are borrowed or derived in their matured form by one national system from another. This risk is considerable in the study of the commonly called feudal institutions and of many theories on the history of land-ownership.

In relation to this point, I will add a word of caution, necessary in these days, although familiar to antiquaries and students of continuities. The first occurrence of the mention of particular terms, or forms of institutions, is treated by diversely constituted minds and different schools, in ways diametrically opposed. To one it is an evidence of novelty or innovation, to the other a presumption, strong enough to be a proof, of a previous existence. The balance of reasonableness is, in human history, on the side of the latter, for as a rule facts are older than records, customs older than statutes ;

and many records have perished, in all probability, before the one that survives furnishes evidence of an institution which may and often must have existed long before it came to be embodied in record at all. Investigators who reject this consideration would reduce the domain of archaeological study to a vacuum, or to a collection of unconnected and unorganized atoms.

Now the history of institutions, as of nations, runs through occasional tunnels; and it may very well be that a custom, or law of primitive life, emerges at the end of such a tunnel in a form somewhat modified from that in which it entered, whilst on careful analysis, its identity is unmistakable, its history being susceptible of varied hypothetical explanations. That this generalization is open to occasional misunderstanding or misapplication, any historical student must, and will readily grant; but I confess that to me, as an old investigator, a good deal of the accepted theory of continuous History, in this region, at least, of History, seems to rest on arguments as sound, within its own material and area, as those on which Copernicus and Kepler worked out their astronomical conclusions. Where there are periods of occultation, a working hypothesis is often all that can be adduced in sustentation of continuous History, and it is well that every such hypothesis should be freed as much as is possible from confusion between essentials and accidents, as well as from the peremptory dogmatism which identifies theory with discovery. But a working hypothesis, constantly being realized and illustrated even by detached discovery, gradually approaches to the position of proved History. And, this being allowed for, I do not hesitate to express my confidence in the future of historical work conducted on the plan on which in this and in my other books I have tried to work.

I have to acknowledge, very gratefully, my obligations to Professor York Powell and Mr. A. L. Smith, for kind advice and suggestions.

I have inserted, as addenda, a specimen Pipe Roll for Oxfordshire, which will illustrate the Dialogus de Scaccario, and incidentally the legal history of the year to which it belongs; and a curious relic of the scheme of national defence set on foot by John in 1205, which has a special bearing on the development of the Militia system and the office of Constable in counties and their subdivisions.

W. OXON.

CUDDESDON,
March 14, 1895.

PART I

A SKETCH OF THE CONSTITUTIONAL HISTORY OF THE ENGLISH NATION DOWN TO THE REIGN OF EDWARD I

THE English nation is of distinctly Teutonic or German origin. The Angles, Jutes, and Saxons, who, according to Bede, furnished the mass of immigrants in the fifth century, were amongst those tribes of Lower Germany which had been the least affected by Roman influences. They entered upon a land whose defenders had forsaken it, and had carried away with them most of the adventitious civilization which they had maintained for four hundred years; whose inhabitants were enervated and demoralized by long dependence, wasted by successive pestilences, worn out by the attacks of half-savage neighbours and by their own suicidal wars; whose vast forests and unreclaimed marsh-lands afforded to the new-comers a comparatively easy conquest, and the means of reproducing at liberty on new ground the institutions under which they had lived at home.

This new race was the main stock of our forefathers: sharing the primaeval German pride of purity of extraction; still regarding the family tie as the basis of social organization; migrating in groups of allied and kindred character, and commemorating the tribal identity in the names they gave to their new settlements; honouring the women of their nation, and strictly careful of the distinction between themselves and the tolerated remnant of their predecessors. The variations of physical and mental characteristics which in the progress of fourteen

hundred years have been developed between the English and North German types, may be amply accounted for by natural and political causes: the natural ones, the air, food, water, and other almost imperceptibly efficient workings of the land on its inhabitants; the political ones, the total difference of history, and of mental and moral discipline.

It is unnecessary to suppose that any general intermixture either of Roman or of British blood has affected this national identity. Doubtless there were early intermarriages between the invaders and the natives, and probably in the west of England a large and continuous infusion of Celtic blood. But though it may have been locally or relatively great, it could only be in very small proportion to the whole. The language, the personal and local names, the character of the customs and common law of the English, are persistent during historic times. Every infusion of new blood since the first migration has been Teutonic; the Dane, the Norseman, and even the French-speaking Norman of the Conquest, serve to add intensity to the distinctness of the national identity. It is true that, as civilization has advanced, the language and the legal system have absorbed new elements, some of them peculiar, some of them common to all civilization. The language, continuous in its perfect identity from the earliest date, unchanged in structure and tenacious in vocabulary, has drawn in from the Latin services of the Church, and from the French of the Courts, new riches of expression; as it has become the literary language of a free people, it has received from the common sources of all literature new forms, which, as the nation has educated itself, have been thoroughly incorporated with the older ones. It is true, in the same way, that from the scientific study of law, somewhat of Roman forms, and somewhat more of Roman principles, have entered into a combination with the elder and more purely developed institutions of the race; but neither the growth of modern English as a literary language, nor that of English law in its composite form, can be made to synchronize

in any stage with any possible infusion of foreign blood. They bear the marks of a rapid civilization assimilating new elements, not of a much mixed race retaining fragments of earlier and shattered systems.

But were the evidences of intermixture of race much stronger and more general than they are, to the student of constitutional history they are without significance. From the Briton and the Roman of the fifth century we have received nothing. Our whole internal history testifies unmistakably to our inheritance of Teutonic institutions from the first immigrants. The Teutonic element is the paternal element in our system, natural and political.

The first traces, then, of our national history must be sought not in Britain but in Germany: in the reports given by Caesar and Tacitus of the tribes which they knew. In these reports we have, it is true, a somewhat indistinct picture: so indistinct that it has been interpreted in many and even in contradictory ways; but one which is certainly capable of being interpreted by the clearer history of the later stages of the institutions which are common to the race; and which so interpreted does give a probable and consistent representation. We have in the Germans of the first century A.D. a family of tribes whose common political characteristics are these:

They have in the time of Tacitus ceased to be pastoral and unsettled races: they occupy fixed seats instead of annually changing their pastures and hunting-grounds, as they were said to do when Caesar wrote; but they are not so far settled as to have divided the land amongst individuals. The several communities allot annually their arable lands among the freemen: these have their own several homesteads; but the pasture lands are not only held but used in common, and the whole land of the settlement belongs to the community. The community, the vicus of Tacitus, is joined with others of the same tribe, and the aggregate is the pagus: an aggregation of pagi is a civitas or populus. The vici and pagi are

governed by principes appointed by the nation in its popular assembly. These principes administer justice, but with the aid of a hundred companions or assessors in each district. Out of them probably are chosen the duces or leaders of the host in war, to whose force each district contributes its hundred fighting men, but whose authority over the allied chieftains is based on personal prowess, not on delegated or otherwise vested right. These principes have the privilege of being attended by a train of comites, who fight for them in battle, wait on them in peace, and regard the honour of association with them as more than a compensation for such diminution of freedom as the relation of patron and dependant involves. Some of the tribes are led by their principes only. Others have adopted royalty: possibly in imitation of neighbouring polities; possibly as a relic of a patriarchal stage, in which the family tie was not merely the chief but the only bond of organization, and the head of the race possessed a priestly character or represented a semi-divine descent; possibly as a centre and symbol of unity among confederated tribes, desiring to embody their own identity in a common hereditary monarchy. In connexion with this royalty we read of nobiles, in blood more dignified, but with no rights other than those enjoyed by all the freemen of the tribe. The king is chosen on the ground of noble descent; but his royalty does not, if we take the simple words of Tacitus, imply much authority: the communities are governed by their principes chosen in the national assembly; and in war they are led by the duces whose prowess exacts their respect: the whole business of the nation is transacted by the Councils of the nation.

In these Councils, held at stated times and attended by all the freemen of the tribe, who by admission to the use of arms have added to their character of members of the family that of full membership of the civitas, the principes form a separate body which has authority to determine minor business and to prepare agenda for the larger gathering. The whole

people meet in that larger gathering, and treat of and decide on measures of higher import. In the several administrations the rule of the magistrate is limited by the advice of his assessors: the dux cannot punish without the assistance of the priests: the king is unable to act without the national council; by it the principes are elected, lawsuits terminated, offenders against the tribe condemned. Nor is the relation of the king to the principes parallel with that of the princeps to his comites. The princeps fights not for the king, but for his own glory; the comes fights not for glory, but for the princeps. The king, then, represents but the unity of the tribe, the princeps the authority of the community, the dux the influence of personal pre-eminence.

There are at the bottom of the scale unfree cultivators of the soil, not slaves, but tenants paying rent and holding land under the free; slaves proper, such as captives in war, or gamblers who have staked and lost all; and lastly, freedmen.

Tacitus does not mention the Jutes or Saxons at all, and the Angles only as one of a list of North German tribes whose places he does not fix. To Ptolemy we owe the identification of the seats of the last two, between the Elbe, the Eyder and the Warnow, in the modern duchies of Holstein, Lauenburg and Mecklenburg. We can discern nothing distinctive about them, except that in the second century they were recognized but insignificant tribes.[1]

Between the age of Tacitus and Ptolemy and that of Bede we have very few distinct data: we know, however, that during the period the name of Saxon was extended to a great aggregation of North German tribes, which retained their independence of Rome, their ancient religion and seats, and very much of their ancient barbarism. To what extent they had developed the germs of a political system common to them with the rest of the Germans, before they took possession of their new home,

[1] The origins of the migrating tribes are discussed by H. Munro Chadwick in *The Origin of the English Nation* (Cambridge, 1907).

can only be conjectured. We may, however, safely argue that their progress had not been rapid: it is certain that whatever progress was made was free from Roman elements: it is probable that the Saxons were behind the rest of the Germans in the distinctness of polity which belongs to the tribes with which the Romans were better acquainted. The importance attached to the tie of kindred, even in the eighth century, in England, marks a more primitive or more purely developed system than that described by Tacitus, whilst Bede's account of the government of the Old Saxons, the Saxons of Germany of his own day, bears evidence of a state of things little removed from that described by Caesar. In the midst of the obscurity, two points stand out with clearness,—(1) that the Teutonic occupation of Britain was a migration and not a mere conquest; and (2) that the nations so migrating came from a settled country, and must be credited with the same amount of organization here which they had possessed at home. We are thus freed from the necessity of supposing that our forefathers had after their migration to begin with the first elements of settled civilization; but we are also prepared to see changes in the primaeval system under which they had lived at home, originated, necessitated, and shaped by the fact that they had made so great and general a movement.

In the first place, a nation moving in mass has not to learn the first lessons of colonial life. It has the names, the offices, the functions of the system in which its corporate organization is inherent. The tie of kindred is strong, but it does not supersede, nay, it carries with it the organism of the vicus and the pagus, probably also that of the civitas. The new-comers have but to divide the land, and then for peace or war, justice or politics, simply to reproduce their own old condition. The vicus, village, or township, will even retain its old proportionate numbers: the superior divisions will have that indefiniteness which even in the age of Tacitus belonged to the hundreds, the centeni, of the Germans. The system, such as

it is, is transported whole, at the point of development which it has reached at home.

But, in the second place, it will be modified and advanced by the very process of migration: the necessity of order and mutual reliance will have strengthened the cohesion of the mass. The successful dux or princeps who has brought his people over the sea, although at home he was no king, and perhaps owned no king, has, now that he has reached the new land, won for himself a rank beyond that of an elective magistrate; he has shown himself a son of Woden, the great leader of the migrations, and founds a new royalty and nobility in his own person. He unites the hereditary character of royalty with the prestige of the successful leader and the authority of the elective magistrate. The king of the new land is much stronger than the king, the dux, or the princeps of the old. 2.

These processes are, of course, not peculiar to the occupiers of Britain: they are of the necessities of all the migrations: the Franks and the Goths, as they move, are affected in the same way. Yet out of the Frank and Gothic systems arises, under the influences of Roman intermixture, a new one so rapidly and so greatly advanced, that it is in some respect an antithesis to that of the English. The civilizing power of Rome and the necessities of conquest have, in the sixth century, in France and Spain, forced the process into a maturity which it has not reached in England or in un-Romanized Germany four centuries later. We must add to the two conditions already specified, that the Teutonic system transplanted with the race into Britain grows up more purely and is developed more freely, with less of imitation, and with slower, steadier, stronger growth.

The progress towards political union in England does not begin with the aggregation of units. There is no reason to doubt the substantial truth of the traditions which ascribe the origin of the kingdoms of Kent, Sussex, East Anglia, Deira, and Bernicia to the conquests of single chieftains; or that the kingdom

of Wessex was the result of a long series of aggressions led by a single line of princes with their dependent under-kings; or that Mercia was an accretion, under one great organizer, of a considerable number of little states, created by late migrations under more insignificant chiefs into a country the dangers of which were now known, and the organization of the immigrants consequently less close.

We thus arrive at the point of time at which the conversion (1) of the people to Christianity introduces a new bond of union, (2) the influences of a higher civilization, and a greater realization (3) of the place of the English in the commonwealth of nations. The reduction of the whole of the Church organization of the seven kingdoms into the National Church, was the work of Theodore of Tarsus: the introduction of the forms and decencies of ecclesiastical councils into the meetings of the nations gives its peculiar character to the English Witenagemot; and the union of ecclesiastical and civil organization throughout the land impresses a perpetuity on the divisions and subdivisions which before had been determined by the occupancy of the family or tribe. The separate vicus, or township, becomes the sphere of duty of a single priest, and later is called his parish; the kingdom becomes the diocese of a bishop; the whole land the province of the metropolitan: the rival archbishops head rival nationalities; the greater dioceses are subdivided on the lines of the earlier under-kingdoms in six of the seven states, and when Wessex late in the day begins to subdivide, she follows the same idea. The organisms of Church and State advance side by side; the shires become the archdeaconries, and the hundreds the deaneries of a later age. The archdeacon or bishop presides with the ealdorman and sheriff in the shire-moot; the parish priest leads his people to the hundredmoot, or even to the fyrd; the witenagemot has its most distinct and permanent constituent in the clergy, bishops, and abbots.

Theodore of Tarsus.

There are in the Anglo-Saxon system, as we find it in the laws and charters of the kings, certain distinct steps of growth

in political insight; but as the development during five centuries was very gradual, there are many features of the system which remain almost in permanence during the whole period, and run on in different combinations still later. The system is developed purely and slowly, and we are at no loss to trace the continuity of its growth from the earlier germs. From the seventh to the eleventh century the national organization may be generally described thus:

The people occupy settled seats; the land is appropriated to separate townships, and in these certain portions belong in entire possession to separate owners, whilst others are the common property of the community; and there are large unappropriated estates at the disposal of the nation. Each of these townships has an organization of its own; for certain purposes the inhabitants are united by the mutual responsibility of the kindred; for others they are under the authority of their reeve, who settles their petty disputes, collects their contributions to the national revenue, leads the effective men to the fyrd, and with his four companions represents the township in the court of the hundred or in the folkmoot. The townships are not always independent; sometimes they are the property of a lord, who is a noble follower, comes, gesith, thegn, of the king, with jurisdiction over the men of the township, and many of the rights which we associate with feudalism. Where, however, this is the case, the organization is of the same sort; the reeve is the lord's nominee, the moot is the lord's court,[1] the status of the inhabitants is scarcely less than free, and their duties to the state are as imperative as if they were free.

A cluster of townships is the hundred or wapentake; its presiding officer is the hundred-man: he calls the hundred-

[1] The existence of a township-moot, in the sense of a law-court, is not proved by any texts and is questioned by Maitland (*Domesday Book and Beyond*, pp. 147–8, 349–50). The old view is, however, upheld by Vinogradoff (*Growth of the Manor*, pp. 273–4).

moot together, and leads the men of the hundred to the host, or to the hue and cry, or to the shiremoot. He is generally elected, although sometimes the feudal element is all-powerful here also, and he is nominated by the noble or prelate to whom the hundred belongs. He has no undivided authority; he is helped by a body of freemen, twelve or a multiple of twelve, who declare the report of the hundred, and are capable of declaring the law. Nearly all the work of judicature is contained in this, for questions of fact are determined by compurgation and ordeal. The shiremoot is a ready court of appeal, and the royal audience is accessible only when both hundred-moot and folkmoot have failed to do justice.

Shire. A cluster of hundreds makes the shire; its officers are the ealdorman, the sheriff, and the bishop; its councillors are the thegns, who declare the report of the shire; its judges are the folk assembled in the shiremoot, the people, the lords of land with their stewards, and from the townships the reeve and four men and the parish priest.

The shiremoot is the most complete organization under the system: it is the FOLKMOOT; not the witenagemot of the shire, but the assembly of the people; in it all freemen in person or by representation appear. Its ealdorman is appointed by the witan of the whole nation, like the princeps of Tacitus; its reeve once, perhaps, elected from below and authorized from above, like the king or bishop himself. The ealdorman leads the whole shire to the host, the sheriff commands the freemen, the lords their comites and vassals, the bishop's reeve or abbot's reeve the tenants of the churches; all under the ealdorman as the national leader. The ealdorman and bishop attend the witenagemot; the sheriff executes justice and secures the rights of the king or nation in the shire.

Kingdom. The union of shires is the kingdom; whether there be only two or three, as in any of the seven kingdoms, or more, as in the kingdom of Athelstan or Edgar. But the kingdom is merely an aggregation of shires, which in many cases have themselves

been kingdoms of earlier formation, with the minimum of necessary administration. The king is at the head: the national council is the witenagemot.

Under the Heptarchic arrangement there was no organized unity but the ecclesiastical. The Church in this aspect is older than the State. The Church councils were the only national councils, the metropolitan the only person whose word had the same force everywhere: it was through the Church that the nation first learned to realize its unity. Yet the unity of the race, though not available for organized government, was not forgotten. There was no period within historic times when one of the seven kingdoms had not an honorary and more or less real precedence. Whether or no this precedence was expressed by the title of Bretwalda, it involved no inherent authority, nor does it imply any unity of administration. Each kingdom has its own witenagemot, and the deliberations of the kings are rather consultations of plenipotentiaries than national councils. Only when Wessex has finally annexed the other kingdoms, is the nation counselled for by one witenagemot.

Neither in its earlier nor in its later form, neither in the seven kingdoms nor in the one, is the witenagemot formed on the model of the lower courts. It is not a folkmoot; although it represents the people, it is not a collection of representatives: its members are the principes, the sapientes, the comites and counsellors of royalty, the bishops, the ealdormen, and the king's thegns. The witenagemot can never have been a large assembly; seventeen bishops, a variable number of ealdormen, according as the shires were distributed singly or in clusters, never perhaps more than twenty; of vassal members also a variable number, gradually increasing as the power of the crown became greater and the number of jurisdictions multiplied under the leaven of feudalism.

The process of time and change of circumstances have now reversed the dictum of Tacitus. On greater matters the princes

consult, on smaller matters all; the plebs, the folk, rises no higher than the shiremoot. But the whole claims of the people as against the king are vested in the witenagemot, and as the character of the king varies, those claims are more or less actively exercised. The witan, where they are able, have the
i. right of electing and deposing kings; in conjunction with the
ii. king, of nominating ealdormen and bishops, of regulating
iii. iv. the transfer of public lands, of imposing taxes, of voting
v. supplies and so deciding war and peace, of authorizing the
vi enforcement of ecclesiastical decrees, of joining in the making
vii. viii of laws, of sitting as a high court of justice over all persons and causes.[1]

But under a strong king many of these claims are futile; the whole public land seems, by the eleventh century, to have been regarded as at the king's disposal really if not in name: the sheriffs, ealdormen, and bishops are named by the king; if he be a pious one, the bishops are chosen by him with respect to the consent of the diocesan clergy; if he be a peremptory one, they are appointed by his determined will. But the power of legislation and taxation are never lost, nor does the king execute judgement without a court which is in name, and in reality perhaps, a portion of the witenagemot.

taxation. Neither taxation nor legislation is very onerous work: the trinoda necessitas and the rents of the public lands supply for a long time all the necessary expenses of government. Extraordinary taxation is imposed by the witenagemot, as the Danegeld or the shipgeld; a regular tax of two shillings on every hide of land furnishes a bribe to the Danes, or a contribution of a ship and its equipments is levied on the shires in
legislation due proportions, to enable the king to resist them. The laws are mostly concerned with minute adjustments and modifications of usages, the great body of the common law being yet

[1] For a sceptical review of the evidence relating to the powers of the Witan, especially in regard to royal elections, see Chadwick, *Studies on Anglo-Saxon Institutions*, pp. 355–66.

transmitted orally or by custom, not reduced to writing until it is in danger of being forgotten.

The fabric is crowned by the king; not the supreme law-giver of Roman ideas, nor the fountain of justice, nor the irresponsible leader, nor the sole and supreme politician, nor the one primary landowner; but the head of the race, the chosen representative of its identity, the successful leader of its enterprises, the guardian of its peace, the president of its assemblies; created by it, and, although empowered with a higher sanction in crowning and anointing, answerable to his people. He is the national representative; the national officers are his officers; he leads the army of the nation as the ealdorman that of the shire; he is supreme judge, as the sheriff is in the shiremoot; in each capacity his power is limited by a council of free advisers; and he is bound by oaths to his people to govern well, to maintain religion, peace, and justice, they being bound to him in turn by a general oath of fidelity.

It would be rash to affirm that the system thus characterized ever existed in integrity, much more so that it existed in anything like this integrity for the whole four centuries that preceded the Conquest. Yet that every single portion of it existed at some period during those centuries, and when it ceased to exist was superseded by some other arrangement of the same kind, is capable of proof. Varieties of practice may have prevailed in different ages and districts, as to the names of the inferior courts, as to the number and functions of the assessors of the shiremoot, as to the law of compurgation, wergild and ordeal, as to the responsibility of the kindred, the hundred or the township for the production of culprits; but the general machinery was permanent, and during the greater part of the time little affected by Frank, Roman, or Celtic laws or politics.

From the end of the tenth century a change sets in which might ultimately by a slow and steady series of causes and consequences have produced something like continental feudalism.

The great position taken by Edgar and Canute, to whom the princes of the other kingdoms of the island submitted as vassals, had the effect of centralizing the government and increasing the power of the king. Early in the eleventh century he seems to have entered on the right of disposing of the public land without reference to the witan, and of calling up to his own court by writ suits which had not yet exhausted the powers of the lower tribunals. The number of royal vassals was thus greatly increased, and with it the power of royal and noble jurisdictions. Canute proceeded so far in the direction of imperial feudalism as to rearrange the kingdom under a very small number of great earls, who were strong enough in some cases to transmit their authority to their children, though not without new investiture, and who, had time been given for the system to work, would have no doubt developed the same sort of feudality as prevailed abroad. Already by subinfeudation or by commendation great portions of the land of the country were being held by a feudal tenure, and the alodial tenure which had once been universal was becoming the privilege of a few great nobles too strong to be unseated, or a local usage in a class of landowners too humble to be dangerous.

The Norman Conquest in one aspect stopped this natural growth of feudalism: in another it may be said to have introduced the feudal system. Had this system been developed naturally, it would have doubtless become, as it did abroad, the framework of government. The Conqueror saw the evils of this exemplified in France. He, from the beginning of his reign, attempted to rule as the national sovereign, not as the feudal lord. The great confiscations resulting from the rebellions of the native earls threw, however, enormous territories into his hands, and these, being distributed among his followers on the feudal conditions,[1] constituted him at once the supreme landowner. To these conditions all other tenures were gradually

[1] See J. H. Round, *Feudal England*, p. 225 ff. (London, 1895), for the Conqueror's system of knight-service.

but rapidly assimilated; they were not, perhaps, entirely so assimilated when Domesday-book was drawn up,[1] but before the accession of Henry I they seem to have become uniformly feudal.

On the Continent, the feudal system had, under the necessities of conquest and by the influence of Roman principles of law, worked itself into the very machinery of government. The origin of vassalage has been traced to the relation of the comes to the princeps in the German, or to that of the client to his patron in the Roman system; and the double title to the land, either to the emphyteutic tenure of the latter, or to the beneficium of the Merovingian conquerors. But so far it was a tenure only. When the beneficium began to be hereditary, and the provincial governors to be the great beneficiary proprietors in the province, often also by marriage or descent great alodial owners, then the powers of jurisdiction and military command became feudal also. The royal power was eclipsed by that of its own officers, and the king became *primus inter pares*, or often enough the servant of his own servants.

This was the condition of things with which William the Conqueror had been conversant in France, and in a lower degree in Normandy itself, where the greater vassals were always trying to reduce the duke's authority to a shadow, to maintain the immunity of their lands from his higher jurisdiction, and to get rid of his ancient right to garrison their castles. It was not without a long struggle that he had established his position against the predecessors of the nobles who formed the strength of the confederation by which he had to secure his conquest.[2] To avoid the renewal of the struggle upon the new soil, William from the beginning of his reign took strong and decided

[1] See on this subject Vinogradoff, *English Society in the Eleventh Century*, pp. 219–62; and Maitland, *Domesday Book and Beyond*, pp. 150–72.

[2] For the policy and government of William I in Normandy see the articles of C. H. Haskins in the *American Historical Review*, xiv. p. 453, and in the *English Historical Review*, xxii. p. 636; xxiii. p. 502. Also the same author's *Norman Institutions* (1918), pp. 3–61.

measures. At the earliest opportunity he abolished the great earldoms which Canute had created, and placed the government of the shires, through the office of sheriff, in direct dependence on himself. For the vassals who demanded and had a right to demand a share in the fruits of their victory, he provided by liberal gifts of land; but these were scattered throughout the country in a way that made united organization of great estates impossible. In the cases in which he is said to have created or continued palatine counties,—those of Chester and Shrewsbury on the Welsh march, that of Durham on the Scottish border, and that of Kent as a guard against aggression from Picardy,—two were entrusted to ecclesiastics who could not found families; and generally not even his most faithful servants were trusted with either large connected estates or great hereditary jurisdictions. He further maintained in full efficiency all the lower organization of the earlier system, adding definiteness and distinctness where it was wanted: he enforced the frankpledge,[1] and upheld the courts of the hundred and the shire, although in so doing he had to suffer the continuance of the private jurisdictions or franchises of the nobles, and even the extension of the principle on a small scale to the new estates of his vassals. But in order to preclude any hope of creating an independent jurisdiction to the exclusion of his own, he renewed the old custom by which every freeholder took an oath of fealty to the king; nor did he, whilst trying to strengthen the national institutions, at all relax the hold which his feudal position gave him on the Normans, in the exaction of all customary rights and dues.

In all the organization of the state, however, great changes did follow the Conquest. The officers of the government were Normans; their offices received Norman names; and the assimilation of all tenures to the feudal introduced the feudal principle into every department. Hence, although not perhaps

[1] If indeed he was not the inventor of the system. See W. A. Morris, *The Frankpledge System* (in *Harvard Historical Studies*, vol. xiv).

all at once, the national council, instead of being the assembly of the wise men of the nation, became the king's court of feudal vassals: the royal revenue began to consist largely of feudal aids and other incidents: as the feudal lord, the king became the head and source of all jurisdiction, and the administration of his court and household a centralization of all lower organization, national or imported.

In both respects, then, in the maintenance of the inferior organization and in the creation of a ministerial body in the feudal court itself, William imposed a check on the feudatories already crippled by the dispersion of their estates and the limitation of their jurisdictions; and the restriction of their power was the security of the people at large:—but to work the composite system he was compelled to use the feudatories; and they naturally worked it to their own purposes, thus gaining a vantage-ground for their struggle against the royal power which lasted for nearly a century, and ended in the humiliation or extinction of all the great families of the Conquest. Throughout this struggle it may fairly be said that, although in the way of pecuniary exaction the kings pressed their hold on the great vassals to an undue extent, the interests of the crown and the people were one.

At the head of the administrative system, now, stands the king, the feudal lord of all the land, the source of all jurisdiction, the supreme arbiter of war and peace. His court, whose counsel and consent are the only restriction on his power, is composed of his own vassals, even the prelates being compelled to do homage in token of their secular dependence on him. But he is also the king of the nation, his council is the witenagemot of the nation, and the laws by which he rules are the laws which his people have claimed from him as their own. Independently of the whole feudal machinery, the people are bound to him by oath, and he to them by his coronation promises and charter of liberties.

The enormous amount of business entailed on the king by this complication of new and old relations, compels the appoint-

ment of a minister who shall stand to him in the whole kingdom in the same relation in which the sheriff does in each shire. This is the justiciar, or lieutenant-general of the king, who is the king's representative in all matters; regent of the kingdom in his absence; and, whether the king is absent or present, the supreme administrator of law and finance. Under him the king's clerks or chaplains are formed into a body of secretaries, the chief of whom bears the title of Chancellor. The Conqueror himself executed in person a great part of the business of the state; it is under William Rufus that the justiciar becomes the prime minister: in this great office the Conqueror was strong enough to employ a great baron; William Rufus employed a safer official, a lawyer or a chaplain after his own heart.

The organization of the justiciar's administration dates from the reign of Henry I, the chief systematizer of it being Roger, bishop of Salisbury, whose family retained the direction of the machinery for nearly a century. The staff of the justiciar is a selection from the barons or vassals of the crown who are more nearly connected with the royal household, or qualified by their knowledge of the law for the position of judges. These are formed into a supreme court attendant on the king, the Curia Regis,[1] which when employed upon finance sits in the chamber and is known by the name of the Exchequer. The several members are called, in the Curia, justices, their head being the capitalis justiciarius, or chief justice; in the Exchequer, barones or barones scaccarii, a title which continues to belong to them after they have ceased to be chosen from the ranks of the great vassals.[2]

This staff of officers, which may be regarded as standing to the justiciar in the relation in which the twelve thegns stand

[1] For the earlier, vaguer use of this term, see Adams, *Origin of Eng. Constitution*, p. 56.

[2] See, on the early evolution of the Exchequer, the introduction to the edition of *Dialogus de Scaccario*, by Hughes, Crump, and Johnson (Oxford, 1902), and Poole, *The Exchequer in the Twelfth Century* (Oxford, 1912).

to the sheriff in the folkmoot, as a judicial committee representing the whole court of vassals, is the germ of the entire administrative machinery of the constitution. By it all appeals are decided, and to it all suits may be called up on application of the suitors: to it belongs the assessment and collection of all revenue. As the royal council, it shares in the revision and registration of the laws and charters which it attests. Below it the only judicial machinery is the old one of the shires, the hundreds, and the local franchises. But in the decreeing of taxation and the authorizing of laws it has no direct influence; these powers are still vested in the king and the witan,—the king and the national assembly now composed of his vassals.

The legislative functions of the national council are under the Norman kings rather nominal than real. But the form of participation is retained: the counsel and consent of the barons may be traced in the amendments of the old laws by the Conqueror and Henry I. This immemorial counsel and consent descends from the earliest Teutonic legislation, and is preserved to our own day, a standing and perpetual protest against the imperial doctrine favoured by the lawyers and founded on the devolution of all legislative power on the king,—'Quod principi placuit legis habet vigorem.'

The taxation of the country involves little trouble to the supreme council. It depends partly on the ancient national system, partly on the new feudal one. A tax based on the former requires no new authorization: a grant from the latter merely the vote, and a statement of the amount wanted, where a special gift over and above the prescriptive feudal dues is demanded. Under the Norman kings, there is no instance in which such grant is debated, much less refused. It is no small limitation of autocratic tyranny that it should have been thought necessary to ask it.

The assessment and collection of the revenue is the work of the Exchequer: there on two fixed days in the year every sheriff appears and accounts for the sums due from his shire:—

a the ferm of the shire, that is, the rent formerly paid in kind or in maintenance, now commuted for fixed sums, from old public
b. lands and royal demesnes: the Danegeld, also probably com-
c. pounded for: the proceeds of the fines of the local courts: the
d. feudal aids, and other incidents. It is only in these latter heads that any variation occurs that requires adjustment. The others are all fixed by law, and the proportions payable by each estate are determined by Domesday-book. But as the lands have changed hands, and immunities and franchises are constantly altered by royal charter, some debate between the payers and receivers is needed. The sheriff, who is often a local magnate, cannot be trusted to arrange this; so a detachment of the staff of the justiciar makes the circuit of the shires: these officers debate with the landowners the number of hides for which they owe Danegeld, or the number of knights' fees from which aids and reliefs are due; they likewise assess the towns, which are now becoming important contributors to the revenue. These fiscal visitations of the barons lead to judicial visitations also, and so to a union for both purposes with the local organizations, which, as time advances, is a long step towards the consolidation of constitutional government.

In this way the Norman administration worked; in many cases with great hardship to individuals, but rather depressing than crushing the old national organism. It is gradually
Wm. I developed. William the Conqueror was, so far as any king of the English could be, an irresponsible ruler; he was not a great organizer, but a powerful and laborious man. His hand was in everything, and his wisdom kept him from being a tyrant.
Wm. II William Rufus was a tyrant of the worst sort; but he was without the business powers of his father, and the work of government in the hands of Ranulf Flambard was full of irresponsible
Henry I and wanton oppression. Henry I, as able a man as his father, and as despotic as his brother, by the employment of organized administration, set a limit on his own caprice. Routine is the only safeguard of a people under a perfect autocracy, and by

routine Henry I helped to bring on the reign of law. It is only in the struggles of the clergy that the idea of liberty finds any expression.

The attitude of the people to the crown during these reigns is constant: the whole national system is safe in their support of one another. The great vassals are the common enemies of both. Hence William Rufus and Henry I in their emergencies found it easy to purchase the effectual aid of the country by promises; and the people were sustained in their ancient customs by the king's fear of increasing the jurisdictions of the barons. The words by which Henry I in his Charter provides for the maintenance of the rights of the lower landowners, are a significant proof of this, and of the way in which matters have to change before it is necessary for the barons to force the same provisions on John; in little more than a century the attitudes of the king and barons are reversed. In one important way, however, Henry I connected the local courts with the Curia Regis, by uniting several sheriffdoms under one of his justices. The justices were among the *novi homines* of the baronage, and, like all ministerial bodies, were jealously watched by both nobles and people.

The twenty years that follow the death of Henry I, and are called the reign of Stephen, are a period without example in our history. The feudal baronage take advantage of the struggle for the crown, to throw off every sort of restraint; and by dividing between the two parties in a way that prevents either from gaining a decided advantage, to destroy the new administrative machinery, and exercise irresponsible powers on their own estates. They now exemplify all the mischievous characteristics of continental feudalism: private wars; countless fortified castles; the cruel exercise of summary jurisdictions; the striking of private coinage.[1] Each baron is a king in his own

[1] For the policy of the feudal baronage during the anarchy, see J. H. Round, *Geoffrey de Mandeville* (London, 1892); for the nature of the anarchy, see 'The Anarchy of Stephen's Reign,' in *English Historical Review*, xviii. pp. 630 ff.

castle. That it is only for their own immunities that they fight, appears clearly from their desertions and tergiversations during the continuance of the war. To this disorganization and the irreconcilable opposition of the Empress, Stephen had nothing of his own to oppose. He was a brave man, but without resources, without administrative power, and devoid of political tact. By one act of impolicy, intemperate rather than unjustifiable, he broke with the clergy, to whom he owed his throne, and with the administrative corps, at the head of which Bishop Roger of Salisbury still was, without whose aid he had not a chance of maintaining it. His weakness had suffered the power of both to become overweening; his impolicy set both in array against him, and by one act he alienated every element in the state, and cut off his own sources of revenue. The attempt which he had made to create for himself a strong party and a rival nobility, by erecting new earldoms to be provided for out of the revenue and by the demesne lands of the crown,[1] provoking the jealousy of the barons and impoverishing the royal income, threw him for support on taxation which he had no means of enforcing. The natural result was war, and anarchy succeeding war, in which all central administration, except the ecclesiastical, collapsed. When all parties were exhausted, the bishops obtained the place of mediators, at which they had long aimed; and the succession of Henry II was the result of the compromise. Amongst the terms of the pacification which were intended to bind both Stephen and Henry, was a regular programme of administrative reform, for the abolishing of the evils of the late anarchy and the restoration of national prosperity. The castles were to be rased, the coinage reformed, the sheriffs to be replaced, the crown lands to be resumed, the new earldoms to be extinguished, foreigners to be banished, the administration of justice to be provided for, the Golden Age to return. Henry II. The reign of Henry II initiates the rule of law. The adminis-

[1] This particular charge against Stephen is baseless. See Mr. J. H. Round in his *Geoffrey de Mandeville*, pp. 267–77.

trative machinery, which had been regulated by routine under Henry I, is now made a part of the constitution, enunciated in laws, and perfected by a steady series of reforms. The mind of Henry II was that of a lawyer and man of business. He set to work from the very beginning of the reign to place order on a permanent basis, and, recurring to the men and measures of his grandfather, to complete an organization which should make a return to feudalism impossible. To destroy the 'adulterine' castles, to abolish the 'fiscal' earldoms,[1] to resume the alienated crown lands, was the first, the destructive part of his work; to restore the machinery of the Exchequer and Curia Regis, to extend their powers and to bring them into the closest contact with the provincial organization, was the next step. The greatest obstacles to the carrying out of this policy were the barons, and, unfortunately, the clergy also; the former must be compelled to agree to the restriction of their hereditary jurisdictions within the smallest compass, and the latter to allow themselves to be, in all matters not purely spiritual, subject to the ordinary process of the law. Hence arose the two great struggles of the reign: in that with the barons Henry was successful; in that with the clergy, although worsted and humiliated, he carried off the fruits of victory. These matters ought not to be regarded separately; the Constitutions of Clarendon were but a part of a scheme which was to reduce all men to equality before the same system of law.

In his first years Henry renewed the provincial visitations of the justices for both fiscal and judicial purposes; at a later period he largely increased the staff of judges for this very end, and at the same time greatly expanded the system of inquest by jury, which superseded the old processes of trial by battle and compurgation, and led by no indistinct steps to the incorporation of the machinery of the shire and of the borough in the national council or parliament. The instructions given to the

[1] No earldoms which Stephen had created were abolished by Henry II. Round, *Geoffrey de Mandeville*, p. 275.

visiting judges are precise enough,—they are to enter the franchises of the barons, and to take cognizance of castle guard and every relic of old immunities.

II. A second measure of reform less directly aimed at the feudatories was no less effectual to the diminution of their strength. The commutation of military service for a money payment, or scutage, placed the military training of the people and the disposal of their forces in the king's hands. It enabled him to hire mercenaries for his foreign wars, to dispense with the hated Danegeld, and to bring the ecclesiastical baronage under contribution.[1] The revival of the ancient militia system, or fyrd, by the Assize of Arms, enabled him to dispense with the military services of the barons for the maintenance of order at home. This ancient force had been called out under William Rufus and Stephen; it was now reorganized and ordered to furnish itself with modern weapons. Henry trusted the people more than the barons.

III. A third symptom of his decided policy was the bestowal of the office of sheriff on lawyers and soldiers rather than on the great barons, who had already succeeded, in some cases, in making it hereditary; during the whole of Henry's later years, these very important functionaries were drawn from the class which furnished the barons of the Exchequer and itinerant justices; and their powers were easily limited and regulated by the Curia Regis.

All these measures have a greater significance, viewed as parts of an extended scheme of administration; the reforms which they betoken run into every region of public business.

National Council Henry II made the national council a different thing from what Henry I had left it; he summoned it at regular intervals, twice or thrice every year of his stay in England. Its composition was that of a perfect feudal court; archbishops, bishops,

[1] On the subject of scutage see Pollock and Maitland, *History of English Law*, i. pp. 245 ff. (Cambridge, 1895), where many of the traditional statements are corrected.

abbots, priors, earls, barons, knights, and freeholders. The business transacted in it was political, fiscal, legislative, and judicial. In every public matter the nation was, in theory, consulted; the laws were issued 'cum consensu et consilio'; even taxation, as we may infer from the questions raised by Becket in the council of Woodstock, was suffered to come into debate; the king sat in person to hear the complaints of his people, and decided them by the advice of his bishops and judges. It was in a great council that he determined on the resumption of the alienated demesne; in another he arranged the great quarrel between Castille and Navarre; in another he issued the assize of Clarendon; in another he discussed the marriage of his daughter. That towards the end of the reign he found it necessary to limit the numbers of lower freeholders who attended the councils, is very probable; the use of summonses which prevailed from the first years of the reign gave him the power of doing this.

The Curia Regis and Exchequer continue to be united, but undergo a large modification by the increase and diminution of the number of judges. It is probable that Henry, as Edward I afterwards did, found the chances of corruption and oppression too tempting for the sort of men that he was educating, the lawyers and clerks of the court. He found it necessary in 1178 to restrict the number of those who exercised their functions in the Curia to five, and to reserve for his own hearing in council the causes in which this court, which until now had been a final court of appeal, failed to do justice. This limited tribunal is the lineal predecessor of the existing Courts of King's Bench and Common Pleas; whilst the upper court of appeal, the king in his ordinary council, is the body from which, at later dates, the judicial functions of the Privy Council and the equitable jurisdiction of the Chancellor emerged. It is this council which, in conjunction with the elements of parliament, summoned to meet, but not under the proper parliamentary style, constitutes the great councils of the next century. And

further still, this ordinary council, in union with the barons and bishops, containing all who received a special summons to parliament, formed in the fourteenth century the Magnum Concilium, or great council of the king. It was from the mixture of the powers of the two bodies that the House of Lords received its judicial character as a court of appeal, and the Privy Council derived its legislative character, which it attempted to carry out in the form of ordinances. The original tribunal, the king's ordinary council, retained its undiminished powers throughout, changing at various times and throwing off new offshoots, such as the Court of Star Chamber, until it has reached our own time in the form of the Judicial Committee of Privy Council. The limited tribunal of the Curia Regis continues, with varying numbers, until the reign of John, when the Common Pleas are separated from the other business and fixed at Westminster. Soon after the date of Magna Carta it divides and arranges its business into that of three courts, retaining the same staff of judges for all, and the chief justiciar at the head. Towards the end of the reign of Henry III the three courts receive each a distinct staff, and the extinction of the old pre-eminence of the great justiciar results in the complete separation of the three for all purposes. In the Exchequer Chamber, however, they long retain a trace of their ancient unity of organization.[1]

The visits made to the shires by the itinerant judges and barons form a very important part of the training of the people for self-government; not only in the judicial, but in the fiscal business also.[2] Henry II, if not the inventor, was the great improver of the system of recognitions by jury. The machinery which had been occasionally used before, and which may be traced to Karolingian usage, he applied to every description of

[1] On the evolution of the Courts of Common Law, see Holdsworth, *History of English Law*, i, c. 3 (London, 1903).

[2] See Maitland, *Select Pleas of the Crown for the County of Gloucester, 1221* (London, 1884), which illustrates the business transacted before justices in Eyre.

business. By the ordinance of the grand assize, the person whose possession of land was impugned was empowered to make choice between trial by battle, and the examination of his right by a body of twelve sworn recognitors, who were selected by four sworn knights summoned for the purpose by the sheriff acting under a royal writ. In the other recognitions, as of Mort d'Ancestor and Novel disseisin, the twelve recognitors were simply summoned by the sheriff, acting in this case also under a special precept from the king. Out of these recognitions arose the system of trial by jury; the jurors are at first witnesses of the fact; as business increases they are, under Edward I, afforced by the addition of persons better acquainted with the matter; a further step separates these afforcing jurors from the original twelve, and the former then engross the character of witnesses, the jury becoming the judges of fact after hearing evidence. The sworn knights who nominate the recognitors of the grand assize are, further, the first germ of a county representation. By the assize of Clarendon, a like principle is applied to criminal jurisdiction. Twelve lawful men of each hundred, with four lawful men from each township, are sworn to present criminals or reputed criminals of their district, in each county court; the prisoners so presented being sent at once to the ordeal. In this case Henry simply utilized the machinery that had existed probably since the time of Edgar, but he adapted it to the principle of recognition; the twelve lawful men are witnesses, as they were under the older system, but the process is an inquest under oath, as in the case of the great assize. From this double character of judge and witness the grand jury system historically descends; the permission to traverse the verdict of the grand jury by a new inquest is of later introduction, and was adopted as a consequence of the abolition of ordeal in the reign of Henry III.[1]

But the principle of recognition by jury is found applicable

[1] On the juries of presentment and recognition, see Pollock and Maitland, *History of English Law*, Bk. I, c. 5; Bk. II, c. 9.

to other matters than judicature. As early as the year 1070 William the Conqueror had used it to obtain from the native population an enunciation of the laws under which they claimed to live. In the preparation of the Domesday survey it had been applied, moreover, to fiscal business. The inquest then was made by the oath of the sheriff, the barons and freeholders of the shire and the hundred, the priest, the reeve, and six villeins of each township; and it was used to ascertain the extent and liability of every estate in the kingdom. It was not, however, applied generally to the purpose of taxation until the reign of Richard I. The steps by which so important a stage towards self-taxation and representation was gained are of curious importance. An aid having been decreed by the national council, the collection of it becomes the work of the sheriffs and of the officers of the Exchequer. The classes from which it is to be demanded are, roughly speaking, the knights, the towns, and the socage tenants; the barons, greater and lesser, the boroughs, and the lower freeholders. The military tenants are allowed to certify by their own cartel the number of knights' fees for which they are liable. The towns, through their burgage holders, make their agreement with the barons itinerant; but the lower freeholders are assessed by the sheriff and his officers, and have no check upon their exactions unless their hardships can be made known to the king. When taxation descends to personal property, the sheriff has no basis of calculation; it is in this, then, that the necessity of some machinery of assessment first introduces the jury system. Under the assize of arms in 1181, Henry II directs the liability of each man, either in rent or in chattels, to be estimated by a sworn body of knights or lawful men of the venue; and the same plan is used for the levying of the Saladin tithe, also on personal as well as real property, in 1188. When Richard I, in 1198, exacted a carucage or aid of five shillings on the plough-land, he applied the principle of jury assessment in the most elaborate way to the whole land of the country.

How important were these developments of the idea of representation will be seen by and by.

These are but a few of the measures by which Henry II and his ministers provided for the security of his people,—through which he earned their confidence, and trained them, both by the enjoyment of legal security and by the responsible part laid on them in judicial and fiscal matters, for a time when their co-operation would be required in the higher departments of government, in the decreeing, not the executing only, of legislation and taxation. In these the king had the help of the financial family founded by Bishop Roger, and of the great legist Ranulf Glanvill. He lived long enough to see the success of his policy in making England rich and contented, and a race of nobles springing out of the administrative houses which was to strengthen the law and make common cause with the people.

Richard's reign is in constitutional matters the supplement of his father's; the administrative progress which may be traced in it is to be credited not to himself but to his ministers. Richard FitzNeal, the treasurer, continues the management of the Exchequer; Hubert Walter, the justiciar, develops the machinery which may have originated in the genius of his master, Henry II, or his uncle, Ranulf Glanvill. The pecuniary necessities of Richard, and his long absences from England, threw the whole responsibility on the ministers, and after the anarchy of his first two years, owing to the jealousy of the barons and the faction fights arising from the quarrels of John, Geoffrey, and William Longchamp, this devolved altogether on Hubert Walter. He united in his own person the whole secular and spiritual authority.

From the transactions of the earlier part of the reign we gather little that is constitutionally important. The attack on the chancellor was not a constitutional attempt to assert the responsibility of a minister, but a struggle of factions; the encouragement of the town element is not a deliberate act of policy, but the result of an occasional expedient for raising

money. One or two apparently minor points, however, are of importance. We have seen that Richard's ministers were the first who applied the representative system to the assessment of real property in general for the purpose of national taxation. A step which is scarcely less important is the introduction of the system of election to county functions and offices. This is applied in the first instance to the choice of coroners, who, according to the assize of 1194, are to be chosen in every county, three knights and a clerk, to keep the pleas of the crown. The measure was doubtless intended to be a check on the power of the sheriffs, who were forbidden by the same assize to act as justices in their own counties: a proof that the baronial party still required to be restrained from attempting to strengthen their hold on the local jurisdictions. This assize prescribes also the way of selecting the grand jury: four knights are to be chosen in every shire, who in turn are to choose two out of each hundred; these two are to co-opt ten more out of their own hundred, and the twelve are to form the jury for the hundred. The plan partly resembles that used for the nomination of recognitors for the grand assize, and was likewise a check on the power of the sheriff, to whom the nomination seems to have before belonged. It is possible that the knights electors are henceforth chosen by the suitors, and that the article of Magna Carta which orders them to be elected, for the recognitions of Novel disseisin, Mort d'Ancestor, and darrein presentment, by the county court, is an explanation of earlier custom. But in the case of the coroner there is no such question; the existing immemorial usage, as well as the words of the assize, proves that the election was by the whole body of freeholders. It is the first attempt at popular election in England within the historic period, unless we regard as such the privileges granted to certain of the boroughs to elect their magistrates. This had been attained by some towns, by payment of a fine, under Henry II; in the reign of John it becomes a general privilege conferred by charter.

The steps taken in the direction of freedom and security under these administrators were doubtless of importance in themselves. They were an extension of the rule of law into regions where the rule of force had been far too general. But it must not be thought that they were a pure concession to the desire of freedom and good government. Henry II and Hubert Walter recognized the fact, which Henry I had seen before them, that a people able to count on personal and commercial safety is much more profitable to the Exchequer than one over-taxed and unconstitutionally oppressed. The reign of Richard is not only a period of reform in law, but of unparalleled exactions in money. The various plans of taxation adopted by the earlier kings are all resuscitated and amplified. The scutage of Henry II is applied to the raising of funds for the king's ransom, and increased in amount. The carucage of Richard is but the Danegeld under a new name, and of larger and more profitable assessment. The feudal dues are all exacted; the wool of the Cistercians is seized; the plate of the churches is borrowed; the movables as well as the land are rated. These plans are maintained after the original call for them has been answered. Nor is the opposition to this systematic oppression so marked as might be expected. There are murmurs against the justiciar; the regular clergy are compelled by virtual outlawry to pay the carucage; the mob of London rises against the burghers, because of the unfairness of the assessment; but the only formal resistance to the king in the national council proceeds from Saint Hugh of Lincoln and Bishop Herbert of Salisbury, who refuse to consent to grant him an aid in knights and money for his foreign warfare. This, which is done not on ecclesiastical but on constitutional grounds, is an act which stands out prominently by the side of Saint Thomas's protest against Henry's proposal to appropriate the sheriff's aid.[1]

[1] The importance of these debates as constitutional precedents is challenged by J. H. Round, *Feudal England*, pp. 497, 528.

John. The peculiar circumstances with which the reign of John begins—a questionable title, perfected by the election of the nation—might have seemed for a time to necessitate the observance of legal forms. But although from time to time he summoned his vassals and demanded an aid in constitutional form, he more frequently exacted the taxes without a formal grant, and by imposing fines and levying ransoms on the barons who offended him, without a legal process or sentence, went in oppressiveness far beyond anything done by Richard's ministers. From the beginning of his reign he took both carucage and scutage as a matter of course, and raised the rate of the latter from twenty shillings to two marks on the knight's fee. In 1201 and 1205 he exacted from the army which he had collected at Portsmouth a payment in commutation of service, much as William Rufus had done when he plundered the national militia of the *viaticum* provided by their counties. In 1204 he levied from the tenants in chief enormous 'auxilia militaria', and raised the rate of scutage to two marks and a half. In 1207 he demanded and received a thirteenth of all chattels throughout the country. The ingenuity with which he developed the system of fines is a fertile theme of historians. After the death of Hubert Walter in 1205, relieved from the inconvenient admonitions of a counsellor to whom he owed so much—rid also of his competitor, Arthur—having lost his French dominions, and endangered his hold on England by his quarrel with the clergy—he took advantage of the general disorganization to play the tyrant without restraint. The funds arising from the confiscated estates of the Norman nobles and the exiled bishops enabled him to spend lavishly, to hoard also largely, and to collect an army and fleet for resistance to Philip II, and even for the invasion of France. But the universal disaffection brought all his preparations to nothing. After offending every portion of his people, he had to yield to the papal claims; and when he had yielded, the desertion of his vassals left him

powerless even for revenge. It was the resistance of the northern barons to his command that they should join his expedition to Poitou, that provoked him to the vindictive proceeding which ended in his complete surrender. The barons found a counsellor in Archbishop Langton, and a programme for the redress of grievances in the charter of Henry I. This they compelled John to renew, with large additions, at Runnymede, and in securing their constitutional rights to themselves bound him to observe the same rules towards all freemen. Thenceforth no tax over and above the customary feudal aids is to be taken without consent of the national council, the common council of the realm, the assembly of the barons, the greater of whom are to be summoned by special writ, the lesser by a general one through the sheriffs. The privileges secured by the great charter of John become in their turn the basis or programme of new claims which are the subject of struggles that run through the whole reign of Henry III, and in those struggles are made good. The next reign sees them accepted by the good faith, and defined by the administrative genius, of Edward I.

The agreement between the king and his people—for Magna Carta, although in form a charter, is in substance a treaty of peace—that no scutage or aid shall be exacted without a grant from the common council of the kingdom, and that the common council shall be summoned in a definite and satisfactory way, may seem to be but a small instalment of constitutional reform, and not to go beyond what was already the theory of government in England. But the words of the charter, to be carried out at all, involved much more than they expressed. The old state of things that had followed the Conquest was quite worn out. The legal reforms and general policy of Henry II had created a new nobility, whose interests were entirely English, and had restored the ancient county organization; whilst the privileges procured by fine from the same king, and bought in the shape of charters from his sons by the

towns, had created a new element of political life. The new baronage compelled the king to grant the charter : the counties and the boroughs had to work their way into the full participation of its provisions by slow degrees. The history of these steps has an interest partly political and partly constitutional, and deserves examination in separate detail.

The political situation may be generally stated thus :—Since the Conquest, the political constituents of the nation had been divided between two parties, which may be called the national and the feudal. The former comprised the king, the ministerial nobility which was created by Henry I and Henry II, and which, if less richly endowed than that of the Conquest, was more widely spread, and had more English sympathies ; the other contained the great nobles of the Conquest, and the always large but varying body of lower vassals, who were intent on pursuing the policy of foreign feudalism. The national party was also generally in close alliance with the clergy, whose zeal for their own privileges extended to the defence of the classes from which they chiefly sprang, and whose vindication of class liberties maintained in the general recollection the possibility of resisting oppression.

The clergy may be roughly divided into three schools,—the secular or statesman school, the ecclesiastical or professional, and the devotional or spiritual. Of these, the representative men are Roger of Salisbury, Henry of Winchester, and Anselm of Canterbury. Thomas Becket more or less combines the characters of the three in his varied career. The three stages through which he passed, that of chancellor, that of primate, and that of candidate for martyrdom, answer well to the three schools of the clergy. Throughout the whole period, the first of these schools was consistently on the side of the king, the last as consistently on the side of the nation. The second, when its own privileges were not in danger, was, from the peace of the Church in 1107 to the Becket quarrel, and after the conclusion of that quarrel, continuously on the same side. No

division of the clergy ever sympathized with the feudal party.

The strength of the parties was locally divided. The national party was strongest in the north, where the successive forfeiture of English and Normans had put it in the royal power to provide amply for its supporters; where the national spirit and institutions lingered the longest, and only required the assurance of good government to place themselves on the king's side. The domains of the great earls lay more in the middle of England, which was therefore the seat of disaffection and uneasiness generally, the towns taking the royal or national side against the nobles. The southern shires were more decidedly royalist, the great domains and strong castles of the kings and their kinsmen in the neighbourhood of the seats of government, and the diffusion of episcopal influence, giving them a very considerable advantage. The feudal party made up for its want of strength in other classes of society and other parts of England, by foreign alliances, and the extent and wealth of great foreign domains. The intense dislike of the English to foreigners, which was wisely humoured by Henry II, and as foolishly disregarded by Stephen, John, and Henry III, contributed an ingredient of personal partisanship.

Henry II had broken the feudal party by war, and disarmed it by policy: he had succeeded so well, that the very men who had been his opponents accepted their position, and became the most faithful adherents of his sons. At his death, and during the reign of Richard, there seemed to be every chance that the national party would soon comprise every element of political life; the party quarrels of the period arising from mere personal causes, and the great body of the baronage, as well as the rising municipalities, being faithful. And these chances might have been made a certainty, when the loss of their Norman estates had robbed the feudalists of their vantage-ground.

But the growth and consolidation of the national party had

contributed largely to the increase of the power of the king. The constitution gained in strength and consistency, and the king was the strongest element in the constitution. Henry II's measures, double in their intention, and double in their success, had created a strong royal power and a strong national spirit in conjunction. John's despotic conduct set the two forces which his father had laboured to strengthen and consolidate in array against each other. From the beginning of the thirteenth century the struggle is between the barons, clergy, and people on the one side, and the king and his personal partisans, English and foreign, on the other. The barons and prelates who drew up the articles of the Charter were the sons of the ministerial nobles of Henry II, the imitators of Saint Anselm and Saint Hugh, of Henry of Winchester, and Thomas of Canterbury.[1]

In the history that follows we trace new elements as well as old complications. The national party of 1213 was itself divided between those who, like Robert Fitz Walter, would bring in French aid, and those who stood merely by the national rights. The king's party contained two, or even three sections: his own personal friends and ministers, his foreign allies, and the small but powerful mediating party acting under papal influence. Of these, the first may be regarded as represented by Hubert de Burgh and Peter des Roches; the second by Falkes de Bréauté, and the third by the legate Gualo. John's death removed the great obstacle to the union between the elements which were capable of uniting: the French detachment of the national party collapsed, and the position of the foreign allies of John was made untenable. The national baronage under William Marshall and the king's friends under Hubert de Burgh united, and the papal agents were gradually but effectually edged out. The early struggles of Henry III's reign were

[1] The claims of the baronage to be regarded as a national party are questioned by Miss K. Norgate, *John Lackland* (1902). See also W. S. McKechnie, *Magna Carta*, pp. 406, 449 (Glasgow, 1905).

for the expulsion of the foreign element. But the happy omens which the clearance seemed to promise were rendered futile by the folly, the falseness, and the foreign proclivities of the young king himself, who as soon as he grasped the substance of power brought back into the political arena every single element of discord. Refusing to be bound by his father's engagements, treating his most faithful servant with personal ignominy, and in that act reviving the rivalry between the friends of the king and the friends of good government; throwing himself into the closest alliance with Rome, and crushing the spirit of the national Church; rivalling his father in the multiplicity of his exactions, now contrary to the letter of his own obligations; and bringing in hosts of foreigners hateful to the people, and the cause of unparalleled extravagance and oppression—he let loose every element of misery, and roused every political constituent to resistance.

Strangely enough the head of the disaffection was the man who perhaps had least of all in common with the nation, except the sense of justice. Simon de Montfort was a foreign adventurer; by descent representing on one side the purest feudalism of Normandy, and on the other the great feudal party of the Conquest; brother-in-law of the king, and by the hereditary ambition which marked his paternal house, fitted rather for a usurper than for a defender of other men's rights. Yet there is no reason to doubt either his political wisdom or his sincerity and honesty. His strength, however, was in the false position of the king. Neither the ability of the versatile, experienced, and travelled statesman, nor the confidence of the Church, nor the wealth of his English earldom, nor his own brilliant nature, could have won for him the reputation of a hero and martyr-saint, much less the substance of power. At the head of the barons, trusted by the clergy and worshipped by the people, he forced on the king the new programme of good government; a programme which contained indeed little more than was already binding, but which owed its importance, as its advo-

cate owed his strength, to Henry's falseness. Strong in resistance, and victorious in battle, Simon de Montfort undertook to administer, and attempted to unite under a premature political organization all the possessors of power in the land. But the force which had been so great against the king in arms was inefficient in supremacy: again it became clear that Simon's chief strength was in his rival's folly and weakness. The escape of Edward from captivity renewed the strife, this time with a different result. The death of Simon restored Henry III to the throne, and left the party which Simon had united broken and ready for new combinations.

The long struggle of the constitution for existence ends with the reign of Edward I. This great monarch, whose commanding spirit, defining and organizing power, and thorough honesty of character, place him in strong contrast not merely with his father, but with all the rest of our long line of kings, was not likely to surrender without a struggle the position which he had inherited. For more than twenty years he reigned as Henry II had done, showing proper respect for constitutional forms, but exercising the reality of despotic power. He loved his people, and therefore did not oppress them: they knew and loved him, and endured the pressure of taxation, which would not have been imposed if it had not been necessary. He admits them to a share, a large share, in the process of government: he develops and defines the constitution in its mechanical character in a way which Simon de Montfort had never contemplated. The organization of parliament, of convocation, of the courts of law, of provincial jurisdiction, is elaborated and completed until it seems to be as perfect as it is at the present day; and the legislation is so full that the laws of the next three centuries are little more than a necessary expansion of it. But until he is compelled by the action of the barons, he retains the substance of royal power, the right to the purse-strings, the right to talliage the towns and the demesnes of the crown without a grant from the parliament. Edward I would not

have been nearly so great a king as he was if he had not thought this right worth a struggle ; nor if, when that struggle was going against him, he had not seen that it was time to yield ; nor if, when he had yielded, he had not determined honestly to abide by his concessions. The political party that forced him to the concession was not to be compared with the earlier combinations of the century : Bohun and Bigod had doubtless personal claims at heart, and not political ones : [1] but they took advantage of a state of things which Edward saw could not be resisted. The confirmation of the Charters completes the present survey of political history.

The idea of constitutional government, defined by the measures of Edward I, and summed up in the legal meaning of the word parliament, implies four principles : first, the existence of a central or national assembly, a 'commune consilium regni' ; second, the representation in that assembly of all classes of freemen, regularly summoned ; third, the reality of the representation of the whole people, secured either by its presence in the council, or by the free election of the persons who are to represent it or any portion of it ; and fourth, the assembly so summoned and elected must possess definite powers of taxation, legislation, and general political deliberation. We will now trace very briefly the origin, growth, and combination of these.

First. The Commune Concilium had existed from the earliest times, first as the witenagemot, and afterwards as the court of the king's vassals, or, in a manner, as combining the characters of both. It had in neither stage been representative, in the modern meaning of the word. The witenagemot acted for the nation, but was not delegated or elected by it : the Great Council of the Norman kings included in theory all tenants in chief of the crown, but had no special provision for these to represent their under-tenants, or for the securing of the rights

[1] See J. E. Morris, *Welsh Wars of Edward I*, pp. 274 ff., for an examination of the conduct of the earls.

of any not personally present. The witenagemot possessed and exercised all the powers of a free council; the Norman court or parliament, claiming the character of a witenagemot, if it possessed these rights in theory, did not exercise them. At no period, however, of our early history was the assembling of the national council dispensed with.

Second. The representation of all classes of the people is necessary for the complete organization of a national council, and that complete organization is legally constituted by summons to parliament. In this three principles are involved: the idea of representation, the idea of exhaustive representation, and the definite summons.

I. The idea of representation was familiar to the English in the minor courts, the hundredmoot and the shiremoot. The reeve and four men represented the township in these assemblies; the twelve assessors of the sheriff represented the judicial opinion, sometimes the collective legal knowledge of the shire. At a later period the inquest by sworn recognitors, in civil suits, in the presentment of criminals, and in the assessment of real and personal property, represented the country, that is the shire or hundred or borough, for whose business they were sworn to answer.

II. The political constituents of the nation (exclusive of the king),—the three estates of the realm,—are the clergy, the baronage, and the commons. A perfect national council must include all these: the baronage by personal attendance, the clergy and people by representation. The bishops, although their right to appear personally in the Commune Concilium is older than the introduction of the feudal principle on which the theory of baronage is based, have, by the definition of lawyers, been made to sink their character of witan in that of barons, amongst whom they may for our present purpose be included. The representation of the estates, then, implies the union in parliament of (1) the baronage lay and clerical, (2) the lower clergy, and (3) the commons.

1. The baronage, in its verbal meaning, includes all *barones*, that is all homagers, holding directly of the crown; but by successive changes, the progress of which is far from easy to fix chronologically, it has been limited, first, to all who possess a considerable estate, held by military tenure under one title from the crown: secondly, to those who, possessing such a barony, are summoned by special writ: thirdly, to those who, whether entitled by such tenure or not, have received a special summons: and finally, to those who have become by creation or prescription entitled hereditarily to receive such a summons. The variations of dignity among the persons so summoned, represented by the names duke, marquess, earl, and viscount, are of no constitutional significance. The baronial title of the bishops and mitred abbots originates in the second and third of the principles thus stated.

2. The inferior clergy had immemorially their diocesan assemblies and their share in the provincial councils of the Church,—a share which would be as difficult to define as is that of the plebs or populus in the 'commune consilium regni'; but which does not much affect constitutional history until the period of Magna Carta. At the beginning of the thirteenth century the doctrine was gaining ground that the taxpayer should have a voice in the bestowal of the tax; the legal position of the beneficed clergy had been long definitely settled; and the changes in the character of taxation took from them the immunities which they had earlier possessed and still persistently claimed. The aids which John condescended to ask of the inferior clergy were not granted by assemblies, but collected by separate negotiation through the archdeacons, in the same way that the sheriffs or itinerant judges negotiated the aids of the towns and counties. In a council held by John in 1207 the regular clergy were represented by the abbots; in another, in 1213, the cathedral clergy were represented by the deans; the rest of the clergy not at all. In both of these cases there are analogies with the dealings of the lay estates that might be traced at length. Passing over

the anomalous councils of the next forty years, we find in 1254 a writ directing the archbishops and bishops to assemble all the clergy for the purpose of granting an aid; in 1255 the proctors of the clergy appeared in parliament at Westminster and presented their gravamina. In 1283 Edward I summoned them by their proctors to great councils at Northampton and York; in 1294 they were summoned by their proctors to the parliament at Westminster; and in 1295, by the clause *praemunientes* in the writ summoning the bishops to parliament, the clergy were summoned to appear there; the deans and priors of the cathedrals and the archdeacons in person, the chapters by one proctor, and the clergy of each diocese by two, having full and sufficient power from the chapters and the clergy. This clause has been inserted, with a few exceptions, ever since; the constant usage dating, as stated by Hody, from the 28th of Edward III; but it has not been acted upon since the fourteenth century. We may trace in this the defining hand of Edward I, who doubtless intended by this means to introduce a complete and symmetrical system of representation into the lower department of his parliament. It was defeated by the clergy themselves, who preferred to vote their aids in convocation, their own especial assembly or provincial council; which, also during the reign of Edward I, was a few years earlier reconstituted on the representative basis, in two divisions, one meeting at London and the other at York. The convocations, which were summoned by the archbishops and were divided according to the provinces, the measure of representation differing in the two, must be carefully distinguished from the parliamentary representation of the clergy, which was summoned by the king's writ directed to the archbishops and bishops, and was intended to be an estate of parliament.

3. The commons must be regarded as composed, for political purposes, of the population of the shires, the ancient divisions on the administration of which the early political system of the country was based; and that of the towns or boroughs, which

had been raised by successive grants of privileges to the status of substantive political bodies.

(*a*) Enough has been said already of the origin and growth of representation in the former. It would not appear that there was any provision for the incorporation of the representatives of the shires in the Commune Concilium before the reign of John; and when the principle is adopted, it is questionable whether they owed their privilege to their constitutional position as the most prominent portion of an estate of the realm, or to their being the most ready machinery for the representation of the minor barons, the lower tenants of the crown. The 14th Article of Magna Carta promises that these shall be summoned by a general writ, and through the sheriffs. The only constitutional mode of the sheriff's action was in the county court. Hence the minor barons, to be consulted at all, must be consulted in the county court. But that court was already constituted of all the freeholders, and the machinery of representation and election was already familiar to them. It would, then, appear certain that from the time at which the representatives of the shires were first summoned, they were held to represent the whole body of freeholders; and although there was at a later period a question whether the wages of the knights of the shire should be paid by the whole body of freeholders, or only by the tenants in knight service, it was never peremptorily determined; nor has there ever been a doubt but that the representation was that of the whole shire, and the election made, theoretically at least, *in pleno comitatu*, down to the Act of Henry VI, which restricted the electoral franchise to the forty shillings freeholders.

The first occasion on which the representatives of the shires were summoned to consult with the king and other estates is in the 15th of John, 1213: when the king by writ, addressed to the sheriffs, directs that four discreet men of each shire shall be sent to him, 'ad loquendum nobiscum de negotiis regni nostri.' These 'four discreet men' must be regarded in con-

nexion with the custom of electing four knights in the county court to nominate the recognitors and grand jury; and the 14th Clause of the Charter, directing the summons of the minor barons by the sheriff, must be interpreted or illustrated by this writ. The next case in which it is clear that representatives of the shire were called to parliament is that of 1254, when two knights represent each county. In 1261 the barons, and after them Henry III in opposition, summoned three knights from each shire. In 1264 Simon de Montfort summoned four; to the famous assembly of 1265 he summoned two. In the great assembly which swore allegiance to Edward I in 1273 four knights represented each shire; four came to the first parliament of 1275, and two to the second of that year. The mention of the commonalty in the early writs and statutes of Edward I seems to show that the practice was pursued with some approach to continuity, and certainly in some cases, as in the councils of 1283 and in the parliament of Shrewsbury, it was fully carried out. But the character of these assemblies is a matter of debate, and it cannot certainly be said that the knights of the shire were regarded as a necessary ingredient of parliament until 1294. Their regular and continuous summons dates from 1295.

(*b*) The boroughs of England, like the counties, stood in a double relation to the king. In very many cases they were in his demesne, and had received their privileges as a gift or purchase from him; and in all cases they were a very important element in taxation. Either, then, on the feudal principle as demesne lands, or on the political ground as an influential part of the nation, they stood on a basis, not indeed so old as that of the county organization, but in all other respects scarcely less important. Their history tells its own tale: beginning as demesne of a king or of a bishop, abbot or secular lord, they had by the time of the Conquest obtained recognition, as individualities apart from the body of the counties to which locally they belonged. Some were indeed subject to the jurisdiction

of the king as his demesne, and not included in the corpus comitatus. But the towns so situated at the time of the Domesday survey were few, and, even for a century after, they increased in number and importance slowly. The royal borough was a unit of administration and possessed a law-court distinct from those of the shire and hundred. It was governed by a reeve, who represented the king and presided in the borough-court. The citizens paid rent and other dues to the crown; in some cases these obligations were commuted for a fixed sum which the borough raised by assessments upon individual burgesses. The towns so administered were liable to be called on for tallage at the will of the lord, and the townsmen were in every respect, except wealth and closeness of organization, in the same condition as the villeins of an ordinary demesne. The next step taken in the direction of emancipation was the purchase, by the tenants, of the *firma burgi*; that is, the ferm of the dues payable to the lord, or the king, within the borough: instead of being collected severally by the reeve or the sheriff, these were compounded for by a fixed sum, which was paid by the burghers and reapportioned amongst themselves. The grant of the ferm was accompanied by, or implied, an act of emancipation from villein services; and the recipients of the grant were the burghers, as members of the leet or of the guild, or in both capacities. The burgage rent was apportioned among the houses or tenements of the burghers, who thus became tenants in burgage and on an equality with tenants in free and common socage. The possessors of these burgages were, until a further organization was provided, the political constituents of the borough.

The privileges of the boroughs had not got much beyond this at the death of Henry I; the burghers of Beverley, who were chartered during his reign by their lord the archbishop of York, with the same privileges as those enjoyed by the citizens of York, are empowered by their charter to have their *hans-hus*, and there to make their by-laws, and to enjoy certain immuni-

ties from tolls within the shire. It is impossible to argue from the privileges of the city of London to those of the provincial towns; and in the scarcity and uncertainty of the early charters there are many serious hindrances to any generalization. Amongst the rights claimed by London at this date, are those of electing its own sheriff, of exemption from external judicature, freedom from several specified imposts, and protection for the lands and rights of the citizens, who were entitled to the benefit of their local customary law, even if they appealed to the king's court. London, however, can never have been regarded as a town in demesne; and its privileges, vested in the powerful burghers of the free city, served as a model for those which were gradually emancipated. Under Henry II we trace an increase in the privileges recognized or granted by charter: the king confirms the liberties enjoyed during the reigns of Edward, William, and Henry I[1]; by special privilege the villein who has stayed a year and a day in a chartered town unclaimed is freed in perpetuity, or the towns are exempted from the jurisdiction of the sheriff or king's officer. It is only by fine that they obtain now and then the right to elect their own officers. This and other rights scarcely less important are occasionally granted in the charters of Richard, and commonly in those of John, which seem to recognize in the borough a modified corporate character but little short of the later idea of incorporation. The charter of John to Dunwich is especially full; bestowing the character of a free borough, enumerating the rights, such as sac and soc, in which the burghers enter into the possession of the status before belonging to the lord of the franchise; the ferm of their town; immunity from all jurisdiction except that of the king's justices; the right to appear before the justices, if summoned, by representation of twelve lawful men, and of being assessed

[1] It should, however, be noticed that Henry II much reduced his grandfather's concessions to London (Round, *G. de Mandeville*, pp. 367–9).

in case of an amercement by a mixed jury, half named out of their own body. The privileges of the towns advanced very little further than this during the thirteenth century: but at the beginning of it the principle of representation and election was thus applied to them.

No idea of summoning the towns to appear before the king by their representatives can be traced higher than the reign of John. Before and after this a select number of wealthy burgesses may have occasionally attended the royal councils. They would, however, have no representative character whatever; nor is there any trace of their magistrates, to whom such a character would belong, being summoned to Parliament, as they were to the States-General in France by Philip the Fair. The first notice of a united representation occurs in 1213, when John summoned the representatives of the demesne lands of the crown to estimate the compensation to be paid to the plundered bishops. By a writ to the sheriffs, they are directed to send to S. Albans four men and the reeve from every township in demesne. In this may be distinctly traced a connexion with the county court representation of earlier and later times.[1] The assembly so constituted met, and is dignified by Wendover with the title of a council; the archbishop, bishops, and magnates being present at it. It is indeed the assembly to which, through the justiciar, John proposed the restoration of the laws of Henry I. From this date, however, to the parliament of Simon de Montfort, we find no representative element beyond the knights of the shire appearing in the national assembly: nor can this case be taken as more than pointing the way to the later system. The taxation was still a matter of arrangement with the officers of the exchequer, and for no other purpose were the towns likely to be consulted. The summons of Simon de Montfort was directed to the citizens

[1] The truth of this story is in dispute. Wendover almost certainly mistook the nature of the assembly. See *Eng. Hist. Review*, xx. p. 289; xxi. p. 297.

and burghers of the several cities and boroughs, each of which was to send two representatives. After the year 1265 there is again a long blank; for although in several places the burghers are spoken of as joining in grants of money at the king's request, it cannot be shown that their representatives were convoked for the purpose before the year 1295.[1] The national councils of 1273 and 1283, and the parliament of Shrewsbury, contained representatives of the towns, but they are not allowed by constitutional lawyers the full name of parliaments; nor is it certain whether the representatives attended as representing an estate or a part of one, or merely for the purpose of informing the king and magnates. In 1294 the towns were asked for their contributions by distinct commissions; in 1295 they were summoned regularly to parliament; and although the series of writs is not so complete in the case of the towns as in that of the counties, their right was then recognized, their presence was seen to be indispensable, and the representation has been continuous, or nearly continuous, ever since.

The great difference between the representation of the counties and that of the boroughs is this, that it was in the power of the crown or its advisers to increase or diminish the number of boroughs represented—a power based on the doctrine that their privilege was the gift of the crown, and their status historically that of royal demesne. But their association with the knights of the shire, whose numbers could not be altered, and whose possession of their right sprang from the more ancient part of the constitution, prevented the third estate from falling into the condition into which the corresponding body fell in Spain, where the custom of summoning towns was

[1] The lately discovered writs of the first parliament of 1275 (p. 441) do something to fill up the 'long blank' of which Stubbs speaks. This assembly made a grant of the custom on wool, wool-fells, and leather. It was as fully representative of the laity as the Model Parliament of 1295; and it has still to be explained why Edward I delayed twenty years before giving to the Third Estate its final form.

adopted earlier ; and in France, where it was possibly imitated by Philip the Fair from the practice of Edward I.

III. Parliament was called into being by the writs of summons, addressed to the barons individually, and to the sheriffs for the representation of the third estate. In the latter case both towns and counties chose their representatives in the shiremoot. Where the particular form of writ was not observed, —and both for military levies of the vassals and for great councils a distinct form was in use,—the assembly, although it might contain every element of a parliament, was not regarded as one. The obscurity of our knowledge on this point, caused by the loss of the ancient writs, occasions the difficulty that exists about the assemblies of the reign of Henry III and of the early years of Edward I, during which many councils were held which contained certainly knights of the shire, and possibly deputies from the towns, but which are called Great Councils rather than parliaments, for some technical reason— either they contained other ingredients besides the regular ones of parliament ; or they did not contain all the ingredients of parliament ; or the towns were summoned otherwise than through the sheriffs ; or the number of representatives varied ; or the selection of the boroughs was irregular ; or the purpose specified in the writ was other than parliamentary. Such councils were occasionally held in the succeeding reigns, and exercised many of the powers of parliament, but taxes imposed by them, and laws enacted by their authority, were regarded as of questionable validity, and sometimes had to be formally re-enacted. These councils were, however, a part of the process by which the institution of parliaments ripened. The regular tribunal of later date, to which the same name of Great Council is given, contained the lords spiritual and temporal, the judges of the courts, and the other members of the king's ordinary council. For judicial purposes it exercised a right which parliament as such had not, and which has descended from it to the House of Lords only. It also advised the crown in all

matters of government, although any attempt at legislation was watched very jealously by the Commons.

Third. The combination of the principle of election with that of representation has been illustrated by what precedes. The idea of election was very ancient in the nation, and had been theoretically maintained in both the highest and the lowest regions of the polity: the kings and prelates were supposed to be elected; the magistrates of towns were really so from the beginning of the thirteenth century, if not before. In this, as in every other constitutional point, the freedom claimed and often secured by the clergy served to maintain the recollection or idea of a right. In the reign of Edward I the lawyers represented it as an ancient Teutonic right that the ealdorman, the heretoga, and the sheriff were elected officers. The election of sheriff was claimed for the counties during the parliamentary struggle which produced the Provisions of Oxford, and was conceded to the freeholders by the Articuli super Cartas in 1300; but the privilege was withdrawn early in the next reign. The two principles of election and representation have never been divided in England since the reign of Edward I, although the variety of franchises and disputes on the right of voting for members of parliament are for many centuries bewildering in the extreme. The towns, however close the elective franchise, have never been, as in France, represented by their magistrates as such.

Fourth. Of the four normal powers of a national assembly, the judicial has never been exercised by the parliament as a parliament. The House of Commons is not, either by itself or in conjunction with the House of Lords, a court of justice: the House of Lords has inherited its jurisdiction from the Great Council. Another power, the political, or right of general deliberation on all national matters, is too vague in its extent to be capable of being chronologically defined; nor was it really vindicated by the parliament until a much later period than that on which we are now employed. The two most

important remain, the legislative and the taxative, the tracing of whose history must complete our present survey.

1. The ancient theory that the laws were made by the king and witan co-ordinately, if it be an ancient theory, has within historic times been modified by the doctrine that the king enacted the laws with the counsel and consent of the witan. This is the most ancient form existing in enactments, and is common to the early laws of all the Teutonic races: it has of course always been still more modified in usage by the varying power of the king and his counsellors, and by the share that each was strong enough to vindicate in the process. Until the reign of John the varieties of practice may be traced chiefly in the form taken by the law on its enactment. The ancient laws are either drawn up as codes, like Alfred's, or as amendments of customs: often we have only the bare abstract of them, the substance that was orally transmitted from one generation of witan to another; where we have them in integrity the counsel and consent of the witan are specified. The laws of the Norman kings are put in the form of charters; the king in his sovereign capacity grants and confirms liberties and free customs to his people, but with the counsel and consent of his barons and lieges. Henry II issued most of his enactments as edicts or assizes, with a full rehearsal of the counsel and consent of his archbishops, bishops, abbots, priors, earls, barons, knights, and freeholders. The compact of John with the barons has the form of a charter, but, as already stated, is really a treaty based on articles proposed to him, and containing additional articles to secure execution. From the time of John the forms vary, and the reign of Henry III contains statutes of every shape—the charter, the assize, the articles proposed and accepted, and the special form of provisions, which are analogous to the canons of ecclesiastical councils. From the reign of Edward I the forms are those of statutes and ordinances, differing in some ascertained respects, the former formally accepted in the parliament as laws of

perpetual obligation, and enrolled: the latter proceeding from the king and his council rather than from the king and parliament, being more temporary in character, and not enrolled among the statutes. All alike express the counsel and consent with which the king fortifies his own enacting power: but several of the early statutes of Edward are worded as if that enacting power resided in the king and his ordinary council; and it is not clear whether this assumption is based on the doctrine of the scientific jurists who were addicted to the civil law, or on imitation of the practice of the French kings.

The actual force of the expression 'counsel and consent', which is preserved during so long a period and under such various developments of the royal power, can only be estimated approximately, according to the occasion or the needs or the character of the sovereign who acknowledges it. It stands, for at least a century after the Conquest, as the record of a right rather than the expression of a fact. Under Henry II and his descendants, by whom a large share of power was actually vested in the ministers and judges, the facility of consultation was much increased, but it remains an obscure point, whether consent could be withheld as well as bestowed, and whether it was not generally taken for granted. From the reign of Henry III it was probably a reality; and from that of Edward I downwards the form has a typical force, and the variations later introduced into it have a great deal of meaning. After the permanent incorporation of the commons, from 1318 downwards, the form is, *by the assent of the prelates, earls, barons, and the commonalty of the realm*. From the first year of Edward III the share of the commons is frequently expressed as *petition*; by the assent of the prelates, earls, and barons, and at the request of the commons: under Richard II the assent is occasionally expressed as simply that of the lords and commons. Henry IV enacts with *the advice and assent of the lords at the request of the commons*. In the 23rd of Henry VI the addition *by authority of parliament* first occurs; and from the 1st of

Henry VII the mention of petition is dropped, and the regular form becomes, *the advice and assent*, or consent, *of the lords spiritual and temporal and commons in parliament assembled, and by authority of the same.* These forms certainly are not uniformly observed, but the origin of the changes may be exactly traced, and will be found to synchronize with the latter changes in the balance of power between the several estates and the sovereign.

The further question, Were the estates on an equality in respect of legislation? may be thus briefly answered. The claim of the clergy and commons to a voice was not admitted so early in legislation as in the case of taxation: once admitted, the power of the commons very quickly eliminated all direct interference on the part of the clergy. Down to the end of the reign of Edward I it can hardly be said that the right of counsel was extended to the commons at all; it is in the next reign that their power of initiation by way of petition is first recognized. As late as the 18th of Edward I, the statute Quia Emptores was passed by the king and barons, before the day for which the commons were summoned. As to the clergy, there is no doubt either that they exercised the right of petition or that the king occasionally made a statute at their request, with the counsel of the lords, and without reference to the commons; but acts so sanctioned were not regarded by the lawyers as of full authority, and are relegated, perhaps rightly, to the class of ordinances. Possibly the royal theory was that the right of petition belonged to both clergy and commons, whilst the counsel and consent of the lords only was indispensable. It was not until the 15th of Edward II that the voice of parliament, when revoking the acts of the Ordainers, distinctly enunciated the principle that all matters to be established for the estate of the king and people 'shall be treated, accorded, and established in Parliaments by the king and by the assent of the prelates, earls, barons, and commonalty of the realm, according as it hath been hitherto accustomed' (see note *infra* p. 56).

The growth of the right of the commons may be traced in the forms of the writs: in those of John, the knights of the shire are summoned simply 'ad loquendum'; those of Simon de Montfort describe them as 'tractaturi et consilium impensuri'; *ad tractandum* as well as *ad consulendum et consentiendum* being the form of summons usual in the case of a Great Council. Edward I, in 1283, summons the representatives of the towns *ad audiendum et faciendum*; in 1294, he summons the knights of the shire *ad consulendum et consentiendum, pro se et communitate illa, iis quae comites, barones, et proceres praedicti ordinaverint*; with which agrees the fact, that in 1290 they were not assembled until the legislative part of the work of the parliament had been transacted. From the year 1295, however, the form is '*ad faciendum*'; under Edward II it becomes '*ad consentiendum et faciendum*', to assent and enact. From this time, then, the commons were admitted to a share of the character of the Sapientes, which in this respect the bishops and barons had engrossed since the Conquest, and the king was enabled to state with truth, as Edward I did to the pope, that the custom of England was, that in business affecting the state of the kingdom the counsel of all whom the matter touched should be required. The corresponding variations in the *praemunientes* clause summoning the clergy are:—in 1295, 'ad tractandum, ordinandum, et faciendum;' in 1299, 'ad faciendum et consentiendum;' from 1381, only 'ad consentiendum', a function adequately discharged by absence.

2. The share of the commons in taxation takes precedence of their share in legislation. The power of voting money was more necessary than that of giving counsel. Of this power, as it existed up to the date of Magna Carta, enough has been said. The witenagemot, and its successor the royal council of barons could impose the old national taxes; the ordinary feudal exactions were matters of common law and custom, and the amount of them was limited by usage. But the extraordinary aids which Henry II and his sons substituted for the Danegeld,

and the taxes on the demesne lands of the crown, were arbitrary in amount and incidence ; the former clearly requiring, and the latter, on all moral grounds, not less demanding, an act of consent on the part of the payers. This right was early recognized ; even John, as we have seen, asked his barons sometimes for grants, and treated with the demesne lands and towns through the Exchequer, with the clergy through the bishops and archdeacons. Magna Carta enunciates the principle that the payers shall be called to the common council to vote the aids which had been previously negotiated separately ; but the clause was never confirmed by Henry III, nor was it applicable to the tallaging of demesne. It is as the towns begin to increase, and at the same time taxation ceases to be based solely on land and begins to affect personal as well as real property, that the difficulties of the king and the hardships of the estates liable to tallage become important. The steps by which the king was compelled to give up the right of taking money without a parliamentary grant, are the same as those which led to the confirmation of the charters by Edward I. It was virtually surrendered in the clause then conceded in addition to the charter, though this concession was much more narrowly defined in the official version than in the unauthorized paraphrase, *De Tallagio non concedendo*, which is generally quoted. And this completed the taxative powers of parliament. The further steps of development, the determination of the different proportions in which the various branches of the three estates voted their supplies, and the final engrossing of the taxing power by the House of Commons, the struggles by which the grants were made to depend on the redress of grievances, and the determination of the disposal of supplies assumed by the parliament, belong to later history.

We have thus brought our sketch of Constitutional History to the point of time at which the nation may be regarded as reaching its full stature. It has not yet learned its strength, nor accustomed itself to economize its power. Its first vagaries

are those of a people grown up, but not disciplined. To trace the process by which it learned the full strength of its organism —by which it learned to use its powers and forces with discrimination and effect—to act easily, effectually, and economically,—or, to use another metaphor, to trace the gradual wear of the various parts of the machinery, until all roughnesses were smoothed, and all that was superfluous, entangling, and confusing was got rid of, and the balance of forces adjusted, and action made manageable and intelligible, and the power of adaptation to change of circumstances fully realized,—is the story of later politics, of a process that is still going on, and must go on as the age advances, and men are educated into wider views of government, national unity, and political responsibility. We stop, however, with Edward I, because the machinery is now completed, the people are at full growth. The system is raw and untrained and awkward, but it is complete. The attaining of this point is to be attributed to the defining genius, the political wisdom, and the honesty of Edward I, building on the immemorial foundation of national custom; fitting together all that Henry I had planned, Henry II had organized, and the heroes of the thirteenth century had inspired with fresh life and energy.

Note.—The traditional interpretation of the Statute of York of 1322 (*supra* p. 53) has been recently challenged by Mr. Gaillard Lapsley (*English Hist. Review*, xxviii, p. 118 ff). He argues that the statute only intends to make the assent of the commonalty essential for legislation which limits the royal prerogative. It is clear that, if the statute meant more than this, the statute was constantly broken. But the argument is not altogether conclusive. Mediaeval statutes were often more honoured in the breach than in the observance.

PART II

EXTRACTS ILLUSTRATIVE OF THE EARLY POLITY OF THE ENGLISH

Extracts from Caesar.

The account of the Germans given by Caesar, and drawn by him more from the reports of their neighbours than from his own knowledge of them, must not be regarded as more than a partial glimpse of a small portion of the great family under special circumstances. It would, then, be wrong to look on it as a picture of an earlier phase of the life of the people who are a century later described in detail by Tacitus, or to infer from the difference of the pictures that the intervening period witnessed the transition from one condition to the other. The features remarked on by Caesar—the perpetual state of war, the neglect of agriculture for pastoral pursuits and hunting, the annual migrations of tribes—are, it is true, commonly viewed as characteristic of the first steps out of barbarism into civilization ; but the first two are extremely liable to exaggeration by rumour, and the prominence of the whole three in this description is owing to the generally unsettled state of all tribes bordering on the Roman conquests. It would be unsafe to regard any point in which the report of Caesar is not confirmed by Tacitus as certainly characteristic of the life of the Germans at home. Its interest depends chiefly on the fact that it is the first attempt at an account of the life of our forefathers, and that it comes from the pen of one of the greatest statesmen that ever lived.

C. JUL. CAESARIS, *Comm. de Bello Gallico*, VI. 21. Germani multum ab hac (*sc.* Gallorum) consuetudine differunt, nam neque Druides habent, qui rebus divinis praesint, neque sacrificiis student. Deorum numero eos solos ducunt, quos cernunt et quorum aperte opibus juvantur, Solem et Vulcanum

et Lunam ; reliquos ne fama quidem acceperunt. Vita omnis in venationibus atque in studiis rei militaris consistit ; ab parvulis labori ac duritiei student. . . . . .

Ib. c. 22. Agriculturae non student ; majorque pars eorum victus in lacte, caseo, carne consistit ; neque quisquam agri modum certum aut fines habet proprios ; sed magistratus ac principes in annos singulos gentibus cognationibusque hominum qui una coierunt, quantum et quo loco visum est agri attribuunt atque anno post alio transire cogunt. Ejus rei multas afferunt causas : ne assidua consuetudine capti studium belli gerendi agricultura commutent ; ne latos fines parare studeant, potentioresque humiliores possessionibus expellant ; ne accuratius ad frigora atque aestus vitandos aedificent ; ne qua oriatur pecuniae cupiditas, qua ex re factiones dissensionesque nascuntur ; ut animi aequitate plebem contineant, cum suas quisque opes cum potentissimis aequari videat.

Ib. c. 23. Civitatibus maxima laus est, quam latissime circum se vastatis finibus solitudines habere. Hoc proprium virtutis existimant, expulsos agris finitimos cedere, neque quemquam prope audere consistere : simul hoc se fore tutiores arbitrantur, repentinae incursionis timore sublato. Cum bellum civitas aut illatum defendit aut infert, magistratus qui ei bello praesint, ut vitae necisque habeant potestatem, deliguntur. In pace nullus est communis magistratus, sed principes regionum atque pagorum inter suos jus dicunt, controversiasque minuunt. Latrocinia nullam habent infamiam, quae extra fines cujusque civitatis fiunt : atque ea juventutis exercendae ac desidiae minuendae causa fieri praedicant. Atque ubi quis ex principibus in concilio se dixit ducem fore, qui sequi velint profiteantur, consurgunt ii qui et causam et hominem probant, suumque auxilium pollicentur, atque ab multitudine collaudantur ; qui ex his secuti non sunt in desertorum ac proditorum numero ducuntur ; omniumque his rerum postea fides derogatur. Hospites violare fas non putant ; qui quaque de causa ad eos venerunt, ab injuria prohibent, sanctosque habent : hisque omnium domus patent, victusque communicatur.

Lib. IV. c. 1. Sueborum gens est longe maxima et bellicosissima Germanorum omnium : hi centum pagos habere dicuntur ex quibus quotannis singula milia armatorum, bellandi causa, ex finibus educunt ; reliqui qui domi manserunt se atque illos alunt. Hi rursus invicem anno post in armis sunt, illi domi

remanent. Sic neque agricultura, nec ratio atque usus belli intermittitur. Sed privati ac separati agri apud eos nihil est; neque longius anno remanere uno in loco incolendi causa licet; neque multum frumento sed maximam partem lacte atque pecore vivunt, multumque sunt in venationibus; quae res et cibi genere et cotidiana exercitatione, et libertate vitae, cum a pueris nullo officio aut disciplina assuefacti nihil omnino contra voluntatem faciant, et vires alit et immani corporum magnitudine homines efficit. . . . . .

Ib. c. 3. Publice maximam putant esse laudem quam latissime a suis finibus vacare agros; hac re significari magnum numerum civitatum suam vim sustinere non potuisse. Itaque una ex parte a Suebis circiter milia passuum sexcenta agri vacare dicuntur. Ad alteram partem succedunt Ubii, quorum fuit civitas ampla atque florens, ut est captus Germanorum, et paulo sunt ejusdem generis ceteris humaniores, propterea quod Rhenum attingunt, multique ad eos mercatores ventitant, et ipsi propter propinquitatem Gallicis sunt moribus assuefacti. Hos cum Suebi, multis saepe bellis experti, propter amplitudinem gravitatemque civitatis, finibus expellere non potuissent, tamen vectigales sibi fecerunt, ac multo humiliores infirmioresque redegerunt. . . . . .

Extracts from Tacitus.

The following extracts contain nearly everything in the 'Germania' which touches on matters of government and law. The picture thus drawn must be regarded as a very general outline of the Teutonic system, as it was known to the Romans, in those parts of Germany which came more closely under their view; and it gives thus an impression of greater political solidity in the institutions of the Germans at the time than would probably be warranted by fact. Of its substantial truth there can be no doubt; its very generality is a proof of the careful honesty of the writer, and of the great historical insight which enabled him to catch at a glance the common characteristics of a large family of tribes each of which had customs peculiarly its own. It must, however, be remembered that Tacitus was likely to remark with particular force the points in which primitive German institutions contrasted with the

adventitious and artificial civilization of Rome ; and although it would be absurd to regard the general view as drawn intentionally for the purpose of contrast, such an influence would necessarily affect the exactness and proportion of the drawing. In particular it may be remarked that the force of the tie of kindred appears in our own early English laws more prominently than in this picture ; but this is a mark of a state of society less artificially organized than that of the 'Germania'. As it is not to be supposed that the Germans were in a retrograde state from the second century to the sixth, we are left to infer that the completeness of Tacitus's outline applies only to the most advanced tribes, or owes something to the defining genius of the historian. It might moreover be difficult to blend into a single picture all that Tacitus tells us of the use of royalty and nobility with the conciliar structure of the tribal polity, or with what we know of the condition of the Saxons in these respects some centuries later : it is possible that he has combined into one sketch features characteristic of different tribes or of different stages of development. But if this be so, it only renders the outline more readily applicable, and places it in closer connexion with later history. That is, we have in it a general view of the ideal of the Teutonic system ; in which, it may be, all parts thus described did not exist contemporaneously in this exact proportion, but which is approximately applicable to it at every stage of its early development.

CORN. TACITI, *De Situ, Moribus et Populis Germaniae* (ed. Furneaux, Oxford, 1894), c. 2. Ipsos Germanos indigenas crediderim, minimeque aliarum gentium adventibus et hospitiis mixtos. . . .

Ib. c. 2. Celebrant carminibus antiquis quod unum apud illos memoriae et annalium genus est, Tuistonem deum terra editum, et filium Mannum, originem gentis conditoresque. Manno tres filios assignant, e quorum nominibus proximi Oceano Ingaevones, medii Herminones, ceteri Istaevones vocentur. . . . Germaniae vocabulum recens et nuper additum. . . .

Ib. c. 4. Ipse eorum opinionibus accedo qui Germaniae

populos nullis aliarum nationum connubiis infectos propriam et sinceram et tantum sui similem gentem extitisse arbitrantur. Unde habitus quoque corporum, quanquam in tanto hominum numero, idem omnibus : truces et caerulei oculi, rutilae comae, magna corpora et tantum ad impetum valida.

Ib. c. 5. Terra . . . satis ferax, frugiferarum arborum impatiens, pecorum fecunda sed plerumque improcera. Ne armentis quidem suus honor aut gloria frontis : numero gaudent, eaeque solae et gratissimae opes sunt. . . .

Ib. c. 6. . . . In universum aestimanti plus penes peditem roboris ; eoque mixti praeliantur, apta et congruente ad equestrem pugnam velocitate peditum, quos ex omni juventute delectos ante aciem locant. Definitur et numerus : centeni ex singulis pagis sunt ; idque ipsum inter suos vocantur, et quod primo numerus fuit, jam nomen et honor est. . . .

Ib. c. 7. Reges ex nobilitate, duces ex virtute sumunt. Nec regibus infinita aut libera potestas ; et duces exemplo potius quam imperio; si prompti, si conspicui, si ante aciem agant, admiratione praesunt. Ceterum neque animadvertere, neque vincire, ne verberare quidem nisi sacerdotibus permissum, non quasi in poenam, nec ducis jussu, sed velut deo imperante quem adesse bellantibus credunt ; effigiesque et signa quaedam detracta lucis in praelium ferunt. Quodque praecipuum fortitudinis incitamentum est, non casus nec fortuita conglobatio turmam aut cuneum facit, sed familiae et propinquitates. . . .

Ib. c. 8. Inesse (feminis) quinetiam sanctum aliquid et providum putant, nec aut consilia earum aspernantur aut responsa negligunt. . . .

Ib. c. 9. Deorum maxime Mercurium colunt, cui certis diebus humanis quoque hostiis litare fas habent. Herculem ac Martem concessis animalibus placant. Pars Sueborum et Isidi sacrificat ; unde causa et origo peregrino sacro, parum comperi, nisi quod signum ipsum in modum liburnae figuratum docet advectam religionem. Ceterum nec cohibere parietibus deos neque in ullam humani oris speciem adsimulare ex magnitudine caelestium arbitrantur. Lucos ac nemora consecrant, deorumque nominibus appellant secretum illud quod sola reverentia vident. . . .

Ib. c. 11. De minoribus rebus principes consultant, de majoribus omnes ; ita tamen ut ea quoque, quorum penes plebem arbitrium est, apud principes praetractentur. Coeunt, nisi quid fortuitum et subitum incidit, certis diebus, cum aut

inchoatur luna aut impletur ; nam agendis rebus hoc auspicatissimum initium credunt. Nec dierum numerum, ut nos, sed noctium computant. Sic constituunt, sic condicunt : nox ducere diem videtur. Illud ex libertate vitium, quod non simul nec ut jussi, conveniunt, sed et alter et tertius dies cunctatione coeuntium absumitur. Ut turba placuit, considunt armati. Silentium per sacerdotes, quibus tum et coercendi jus est, imperatur. Mox rex vel princeps, prout aetas cuique, prout nobilitas, prout decus bellorum, prout facundia est, audiuntur, auctoritate suadendi magis quam jubendi potestate. Si displicuit sententia, fremitu aspernantur ; sin placuit, frameas concutiunt. Honoratissimum adsensus genus est armis laudare.

Ib. c. 12. Licet apud concilium accusare quoque et discrimen capitis intendere. Distinctio poenarum ex delicto. Proditores et transfugas arboribus suspendunt ; ignavos et imbelles et corpore infames caeno ac palude, injecta insuper crate, mergunt. Diversitas supplicii illuc respicit, tanquam scelera ostendi oporteat, dum puniuntur, flagitia abscondi. Sed et levioribus delictis pro modo poena ; equorum pecorumque numero convicti multantur. Pars multae regi vel civitati, pars ipsi qui vindicatur vel propinquis ejus exsolvitur.

Eliguntur in isdem conciliis et principes, qui jura per pagos vicosque reddunt. Centeni singulis ex plebe comites consilium simul et auctoritas adsunt.

Ib. c. 13. Nihil autem neque publicae neque privatae rei nisi armati agunt. Sed arma sumere non ante cuiquam moris quam civitas suffecturum probaverit. Tum in ipso concilio vel principum aliquis vel pater vel propinquus scuto frameaque juvenem ornant. Haec apud illos toga, hic primus juventae honos ; ante hoc domus pars videntur, mox reipublicae. Insignis nobilitas aut magna patrum merita, principis dignationem etiam adolescentulis adsignant ; ceteris robustioribus ac jam pridem probatis adgregantur, nec rubor inter comites aspici. Gradus quin etiam ipse comitatus habet, judicio ejus quem sectantur ; magnaque et comitum aemulatio, quibus primus apud principem suum locus, et principum, cui plurimi et acerrimi comites. Haec dignitas, hae vires, magno semper electorum juvenum globo circumdari, in pace decus, in bello praesidium. Nec solum in sua gente cuique, sed apud finitimas quoque civitates id nomen, ea gloria est, si numero ac virtute comitatus emineat : expetuntur etiam legationibus et muneribus ornantur, et ipsa plerumque fama bellum profligant.

Ib. c. 14. Cum ventum in aciem, turpe principi virtute vinci, turpe comitatui virtutem principis non adaequare. Jam vero infame in omnem vitam ac probrosum superstitem principi suo ex acie recessisse. Illum defendere, tueri, sua quoque fortia facta gloriae ejus adsignare praecipuum sacramentum est. Principes pro victoria pugnant, comites pro principe. Si civitas in qua orti sunt longa pace et otio torpeat, plerique nobilium adolescentium petunt ultro eas nationes quae tum bellum aliquod gerunt, quia et ingrata genti quies, et facilius inter ancipitia clarescunt, magnumque comitatum non nisi vi belloque tueare. Exigunt enim a principis sui liberalitate illum bellatorem equum, illam cruentam victricemque frameam. Nam epulae et, quanquam incompti, largi tamen, apparatus pro stipendio cedunt. Materia munificentiae per bella et raptus. . . .

Ib. c. 15. Mos est civitatibus ultro ac viritim conferre principibus vel armentorum vel frugum, quod pro honore acceptum etiam necessitatibus subvenit. . . .

Ib. c. 16. Nullas Germanorum populis urbes habitari satis notum est: ne pati quidem inter se junctas sedes. Colunt discreti ac diversi, ut fons, ut campus, ut nemus placuit. Vicos locant non in nostrum morem, conexis et cohaerentibus aedificiis: suam quisque domum spatio circumdat, sive adversus casus ignis remedium, sive inscitia aedificandi. . . .

Ib. c. 17. . . . Prope soli barbarorum singulis uxoribus contenti sunt, exceptis admodum paucis, qui non libidine sed ob nobilitatem plurimis nuptiis ambiuntur.

Ib. c. 18. Dotem non uxor marito, sed uxori maritus offert. . . . munera non ad delicias muliebres quaesita, nec quibus nova nupta comatur, sed boves et frenatum equum et scutum cum framea gladioque. In haec munera uxor accipitur, atque in vicem ipsa armorum aliquid viro adfert: hoc maximum vinculum, haec arcana sacra, hos conjugales deos arbitrantur. Ne se mulier extra virtutum cogitationes extraque bellorum casus putet, ipsis incipientibus matrimonii auspiciis admonetur venire se laborum periculorumque sociam, idem in pace, idem in praelio passuram ausuramque. . . .

Ib. c. 19. . . . plusque ibi boni mores valent, quam alibi bonae leges. . . .

Ib. c. 20. Heredes . . . successoresque sui cuique liberi, et nullum testamentum. Si liberi non sunt, proximus gradus in possessione fratres, patrui, avunculi. Quanto plus propin-

quorum, quo major adfinium numerus, tanto gratiosior senectus, nec ulla orbitatis pretia.

Ib. c. 21. Suscipere tam inimicitias seu patris seu propinqui quam amicitias necesse est. Nec implacabiles durant : luitur enim etiam homicidium certo armentorum ac pecorum numero, recipitque satisfactionem universa domus, utiliter in publicum, quia periculosiores sunt inimicitiae juxta libertatem. . . .

Ib. c. 22. Sed et de reconciliandis invicem inimicis et jungendis adfinitatibus et adsciscendis principibus, de pace denique ac bello plerumque in conviviis consultant, tanquam nullo magis tempore aut ad simplices cogitationes pateat animus aut ad magnas incalescat. Gens non astuta nec callida aperit adhuc secreta pectoris licentia joci. Ergo detecta et nuda omnium mens postera die retractatur, et salva utriusque temporis ratio est. Deliberant dum fingere nesciunt ; constituunt dum errare non possunt. . . .

Ib. c. 24. Aleam, quod mirere, sobrii inter seria exercent, tanta lucrandi perdendive temeritate ut, cum omnia defecerunt, extremo ac novissimo jactu de libertate et de corpore contendant. Victus voluntariam servitutem adit : quamvis juvenior, quamvis robustior, adligari se ac venire patitur. Ea est in re prava pervicacia, ipsi fidem vocant. Servos conditionis hujus per commercia tradunt, ut se quoque pudore victoriae exsolvant. . . .

Ib. c. 25. Ceteris servis non in nostrum morem, discriptis per familiam ministeriis, utuntur. Suam quisque sedem, suos penates regit. Frumenti modum dominus aut pecoris aut vestis, (ut colono,) injungit, et servus hactenus paret. Cetera domus officia uxor ac liberi exsequuntur. Verberare servum ac vinculis et opere coercere rarum. Occidere solent, non disciplina et severitate, sed impetu et ira, ut inimicum, nisi quod impune est. Liberti non multum supra servos sunt, raro aliquod momentum in domo, nunquam in civitate, exceptis dumtaxat iis gentibus quae regnantur. Ibi enim et super ingenuos et super nobiles ascendunt ; apud ceteros impares libertini libertatis argumentum sunt.

Ib. c. 26. Faenus agitare, et in usuras extendere ignotum ; ideoque magis servatur quam si vetitum esset. Agri pro numero cultorum ab universis vicis [*al.* in vices] occupantur, quos mox inter se secundum dignationem [*al.* dignitatem] partiuntur. Facilitatem partiendi camporum spatia praestant. Arva per annos mutant, et superest ager. Nec enim cum ubertate et

amplitudine soli labore contendunt ut pomaria conserant, et prata separent, et hortos rigent; sola terrae seges imperatur....

Ib. c. 39. Vetustissimos se nobilissimosque Sueborum Semnones memorant. Fides antiquitatis religione firmatur. Stato tempore in silvam auguriis patrum et prisca formidine sacram omnes ejusdem sanguinis populi legationibus coeunt, caesoque publice homine celebrant barbari ritus horrenda primordia....

Baed. *Hist. Eccl.* v. 10. Non enim habent regem iidem antiqui Saxones, sed satrapas plurimos suae genti praepositos, qui ingruente belli articulo mittunt aequaliter sortes, et quemcunque sors ostenderit, hunc tempore belli ducem omnes sequuntur, huic obtemperant; peracto autem bello rursum aequalis potentiae omnes fiunt satrapae.

Extracts from the early Laws of the English.

The laws of all nations which have developed steadily and in their own seats, with little or no intermixture of foreign elements, are generally perpetuated by custom and oral tradition. Hence the earliest written laws contain amendments of older unwritten customs, or codifications of those customs when they are gradually wearing out of popular recollection. Such documents are then generally obscure, requiring for their elucidation a knowledge of the customs they were intended to amend, which is not easily attainable; and where they are clear, they will be found frequently to contain little more than assessments of fines for offences and injuries, with very scanty indications of the process by which the laws are made or the fines exacted. Nor is the case much better where codification is attempted; for the diversity of customs being very great, and the code not intended to supersede but to perpetuate them, the lawgiver is apt to become didactic, and to enunciate principles drawn from religion or morality, rather than legal definitions. The following extracts from the Anglo-Saxon Laws and Institutes may seem a very small residuum, after the winnowing of a very bulky 'Corpus Juris'. But they will be found to contain nearly every mention that occurs in the Collection of our Laws of such matters as public assemblies, courts of law, taxation, or the

legal machinery on the carrying out of which the discipline of self-government is based. The great bulk of the laws concern chiefly such questions as the practice of compurgation, ordeal, wergild, sanctity of holy places, persons, or things; the immunity of estates belonging to churches; and the tables of penalties for crimes, in their several aspects as offences against the peace, the family, and the individual. These, as touching Constitutional History in a very indirect way, are here excluded.

Of the existing Anglo-Saxon laws, those of Ethelbert, Hlothære and Eadric, Wihtred, Ine, Edward the Elder, Athelstan, Edmund, and Edgar, are mainly of the nature of amendments of custom. Those of Alfred, Ethelred, Canute, and those described as Edward the Confessor's, aspire to the character of codes; but English law, from its first to its latest phase, has never possessed an authoritative, constructive, systematic, or approximately exhaustive statement, such as was attempted by the great compilers of the civil and canon laws, by Alfonso the Wise or Napoleon Buonaparte. The text here followed is that of Liebermann, *Gesetze der Angelsachsen* (1903).

A. D. 601–4. *Kent.* ETHELBERT; cap. 1. Godes feoh 7 ciricean xii gylde. Biscopes feoh xi gylde. Preostes feoh ix gylde. Diacones feoh vi gylde. Cleroces feoh iii gylde. Ciricfriþ ii gylde. Mæthlfriþ ii gylde.

[God's property and church-property twelve-fold. Bishop's property eleven-fold. Priest's property nine-fold. Deacon's property six-fold. Clerk's property three-fold. Church-peace two-fold. 'Methel'-peace two-fold.]

Cap. 2. Gif cyning his leode to him gehuteþ, 7 heom mon þær yfel yedo, ii bóte 7 cyninge l scillinga.

[If the king call his 'leod' to him and any one there do them evil, a two-fold 'bot' and fifty shillings to the king.]

Cap. 6. Gif man frigne mannan ofsleahþ, cyninge l scillinga to drihtinbeage.

[If any one slay a free man, fifty shillings to the king, as compensation to the ruler.]

A. D. 685–6. *Kent.* HLOTHÆRE AND EADRIC; cap. 8. Gif man oþerne sace tihte 7 he þane mannan mote an medle

oþþe an þinge, symble se man þam oðrum byrigean geselle 7 þam riht awyrce þe to hiom Cantwara deman gescrifen.

[If one man make plaint against another, and he cite the man to a 'methel' or to a 'thing', let the man always give 'borh' to the other, and do him such right as the Kentish judges prescribe to them.]

A. D. *cir.* 700. *Kent.* WIHTRED; Council of Baccanceld. Illius personae, (*sc.* regis) est principes, praefectos, judices ('eorlas and ealdormen, scirerevan and domesmenn,' *A.-S. Chron.*) saeculares statuere. (Haddan and Stubbs, *Councils*, III, 239, 243.)

A. D. *cir.* 690. *Wessex.* INE; *Preamble to Laws.* Ic Ine, mid Godes gife Wesseaxna kyning, mid geðeahte 7 mid lare Cenredes mines fæder 7 Heddes mines biscopes 7 Eorcenwoldes mines biscopes mid eallum minum ealdormannum 7 þæm ieldstan witum minre ðeode 7 eac micelre gesomnunge Godes ðeowa, wæs smeagende be ðære hælo urra sawla 7 be ðam staþole ures rices; þætte ryht æw 7 ryhte cynedomas ðurh ure folc gefæstnode 7 getrymede wæron, þætte nænig ealdormonna ne us undergeðeodedra æfter þam wære awendende ðas ure domas.

[I, Ine, by God's grace king of the West Saxons, with the counsel and with the teaching of Cenred my father, and of Hedde my bishop, and of Eorcenwold my bishop, with all my ealdormen and the most distinguished 'witan' of my people, and also with a large assembly of God's servants, have been considering of the health of our souls and of the stability of our realm; so that just law and just kingly dooms might be settled and established throughout our folk, so that none of the ealdormen nor of our subjects should hereafter pervert these our dooms.]

Cap. 8. Gif hwa him ryhtes bidde beforan hwelcum scirmen oððe oþrum deman 7 ábiddan ne mæge, 7 him wedd sellan nelle, gebete xxx scill.' 7 binnan vii nihton gedo hine ryhtes wierðne.

[If any one demand justice before a 'scirman' or other judge and cannot obtain it, and a man (the defendant) will not give him 'wedd', let him make 'bot' with xxx. shillings, and within vii. nights do him justice.]

Cap. 11. Gif hwa his agenne geleod bebycgge, ðeowne oððe frigne, ðeah he scyldig sie, ofer sæ, forgielde hine his were.

[If any one sell his own countryman, bond or free, though he be guilty, over sea, let him pay for him with his 'wer'.]

Cap. 36. Se ðe ðeof gefehð, oððe him mon gefongenne agifð, 7 he hine þonne álæte, oððe þa ðiefðe gedierne, forgielde þone þeof his were. Gif he ealdormon sie, ðolie his scire, buton him kyning arian wille.

[Let him who takes a thief, or to whom one taken is given, and he then lets him go, or conceals the theft, pay for the thief with his 'wer'. If he be an ealdorman, let him forfeit his shire, unless the king is willing to be merciful to him.]

Cap. 39. Gif hwa fare unaliefed fram his hlaforde oððe on oðre scire hine bestele 7 hine mon geahsige, fare þær he ær wæs 7 geselle his hlaforde lx scill.

[If any one go from his lord without leave, or steal himself away into another shire, and he be discovered, let him go where he was before, and pay to his lord lx. shillings.]

Cap. 42. Gif ceorlas gærstun hæbben gemænne oððe oþer gedálland to tynanne, 7 hæbben sume getyned hiora dæl, sume næbben, 7 etten hiora gemænan æceras oððe gærs, gan þa þonne þe ðæt geat agan, 7 gebeten þam oðrum, þe hiora dæl getynedne hæbben, þone æwerdlan þe ðær gedon sie.

[If ceorls have a common enclosed pasture, or other land in common, to hedge about, and some have hedged their part, others not; and their beasts graze on the common corn-land or grass, let those responsible for the gap go and give to the others who have hedged their part the compensation that is awarded.]

Cap. 45. Burgbryce mon sceal betan cxx scill. kyninges 7 biscopes, þær his rice bið; ealdormonnes lxxx scill.; cyninges ðegnes lx scill.; gesiðcundes monnes landhæbbendes xxxv; 7 bi ðon ansacan.

['Bot' shall be made for the king's 'burg-bryce' and a bishop's, where his jurisdiction is, with cxx. shillings; for an ealdorman's, with lxxx. shillings; for a king's thegn's, with lx. shillings; for a 'gesithcund' man's, having land, with xxxv. shillings, and according to this make the legal denial.]

Cap. 51. Gif gesiðcund mon landagende forsitte fierd, geselle cxx scill. 7 ðolie his landes; unlandagende lx scill.; cierlisc xxx scill. to fierdwite.

[If a 'gesithcund' man owning land neglect the 'fyrd', let him pay cxx. shillings and forfeit his land; one not owning land, lx. shillings; a ceorlish man, xxx. shillings, as 'fyrdwite'.]

Cap. 63. Gif gesiðcund mon fare, þonne mot he habban his gerefan mid him 7 his smið 7 his cildfestran. Se ðe hæfð xx hida, se sceal tæcnan xii hida gesettes landes, þonne he faran wille. Se ðe hæfð x hida se sceal tæcnan vi hida gesettes landes. Se ðe hæbbe þreora hida, tæcne oþres healfes.

[If a 'gesithcund' man leave his holding, he may take with him his reeve, his smith and his children's nurse. If he has xx hides he must show xii hides sown when he desires to depart; if he has x hides, he must show vi hides sown; if he has three, let him show one and a half.]

A.D. *cir.* 760. PONTIFICALE EGBERTI ARCH. EBOR. *Benedictio super regem noviter electum.—Primum mandatum regis ad populum hic videre potes.* Rectitudo regis est noviter ordinati et in solium sublimati, haec tria praecepta populo Christiano sibi subdito praecipere; *in primis* ut ecclesia Dei et omnis populus Christianus veram pacem servent in omni tempore. Amen.

Aliud est, ut rapacitates et omnes iniquitates omnibus gradibus interdicat. Amen.

Tertium est ut in omnibus judiciis aequitatem et misericordiam praecipiat, ut per hoc nobis indulgeat misericordiam Suam clemens et misericors Deus. Amen. (Ed. Greenwell, p. 105.)

A.D. 787. CONC. LEGATIN.; cap. XII. Duodecimo sermone sanximus, ut in ordinatione regum nullus permittat pravorum praevalere assensum, sed legitime reges a sacerdotibus et senioribus populi eligantur, et non de adulterio vel incestu procreati. . . . (Haddan and Stubbs, *Councils*, III, p. 453.)

A.D. *cir.* 890. *Wessex.* ALFRED; *Preamble.* Hy þa gesetton . . . æt mæstra gehwylcre misdæde ðæt ða woruldhlafordas moston mid heora leafan buton synne æt þam forman gylte þære fiohbote onfon, þe hie ða gesettan; buton æt hlafordsearwe hie nane mildheortnesse ne dorston gecweðan. . . . Ic ða Ælfred cyning þas togædere gegaderode 7 awritan het, monege þe ure foregengan heoldon, ða ðe me licodon; 7 manege þara þe me ne licodon ic awearp mid minra witena geðeahte, 7 on oðre wisan bebead to healdanne. Forðam ic ne dorste geðristlæcan þara minra awuht fela on gewrit settan, forðam me wæs uncuð, hwæt þæs ðam lician wolde ðe æfter us wæren. Ac ða ðe ic gemette awðer oððe on Ines dæge, mines mæges, oððe on Offan Mercna cyninges oððe on Æþelbryhtes, þe ærest fulluhte onfeng on Angelcynne, þa ðe

me ryhtoste ðuhton, ic þa heron gegederode, 7 þa oðre for let. Ic ða Ælfred Westseaxna cyning eallum minum witum þas geeowde, 7 hie ða cwædon, þæt him þæt licode eallum to healdanne.

[They then ordained. . . . that secular lords, with their (the bishops and witan) leave might without sin take for almost every misdeed, for the first offence the money 'bot' which they then ordained; except in cases of treason against a lord; to which they dared not assign any mercy. . . . I, then, Alfred, king, gathered these (laws) together, and commanded many of those to be written which our forefathers held, those which to me seemed good; and many of those which seemed to me not good I rejected them, by the counsel of my 'witan', and ordained otherwise. For I dared not write much of my own; for it was unknown to me how that would please those that should come after us. But what laws I found of the time of Ine, my kinsman, or of Offa's, the Mercian king, or of Ethelbert's, who first among Englishmen received baptism, of these what seemed to me most just, I collected here, and the rest I disregarded. I, then, Alfred, king of the West Saxons, shewed these to all my 'witan', and they then said that it seemed good to them all to be holden.]

Cap. 4. Gif hwa ymb cyninges feorh sierwe, ðurh hine oððe ðurh wreccena feormunge oððe his manna, sie he his feores scyldig 7 ealles þæs ðe he age. . . . Se ðe ymb his hlafordes fiorh sierwe, sie he wið ðone his feores scyldig 7 ealles ðæs ðe he age.

[If any one plot against the king's life, of himself, or by harbouring of exiles, or of his men; let him be liable in his life and in all that he has. . . . He who plots against his lord's life, let him be liable in his life to him, and in all that he has. . . .]

Cap. 22. Gif mon on folces gemot cyninges gerefan geyppe eofot, 7 his eft geswican wille, gestæle on ryhtran hand, gif he mæge; gif he ne mæge, ðolie his angyldes, ond fo to ðam wite.

[If any one at the folkmote make a complaint to the king's reeve, and afterwards wish to withdraw it, let him make it against a righter person, if he can; if he cannot, let him forfeit his 'angylde', and [let the reeve] take possession of the 'wite'.]

Cap. 27. Gif fædrenmæga mægleas mon gefeohte 7 mon ofslea, 7 þonne gif he medrenmægas hæbbe, gielden ða þæs

weres ðriddan dæl, 7 ðriddan dæl þa gegildan, for ðriddan dæl he fleo. Gif he medrenmægas nage, gielden þa gegildan healfne, for healfne he fleo.

[If a man, kinless of paternal relatives, fight and slay a man, and then if he have maternal relatives, let them pay a third of the 'wer'; his guild-brethren a third part; for a third let him flee. If he have no maternal relatives, let his guild-brethren pay half, for half let him flee.]

Cap. 28. Gif mon swa geradne mon ofslea, gif he mægas nage, gielde mon healfne cyninge, healfne þam gegildan.

[If a man kill a man thus circumstanced, if he have no relatives, let half be paid to the king, half to his guild-brethren.]

Cap. 38. Gif mon beforan cyninges ealdormen on gemote gefeohte, bete wer 7 wite, swa hit ryht sie, beforan þam cxx scill. ðam ealdormen to wite. Gif he folcgemot mid wæpnes bryde arære, ðam ealdormen cxx scill. to wite. Gif ðises hwæt beforan cyninges ealdormonnes gingran gelimpe oððe cyninges preoste, xxx scill. to wite.

[If a man fight before a king's ealdorman in the 'gemot', let him make 'bot' with 'wer' and 'wite', as it may be right; and before this, cxx. shillings to the ealdorman as 'wite'. If he disturb the folkmote by drawing his weapon, cxx. shillings to the ealdorman as 'wite'. If aught of this happen before a king's ealdorman's subordinate, or a king's priest, xxx. shillings as 'wite'.]

Cap. 41. Se mon se ðe bocland hæbbe, 7 him his mægas læfden, þonne setton we þæt he hit ne moste sellan of his mægburge, gif þær bið gewrit oððe gewitnes ðæt hit ðara manna forbod wære þe hit on fruman gestrindon 7 þara þe hit him sealdon, þæt he swa ne mote; 7 þæt þonne on cyninges 7 on biscopes gewitnesse gerecce beforan his mægum.

[The man who has 'boc-land', which his kindred left him, then ordain we that he must not give it from his 'mæg-burg', if there be writing or witness that it was forbidden by those men who at first acquired it, and by those who gave it to him, that he should do so; and then let that be declared in the presence of the king and of the bishop before his kinsmen.]

Cap. 42. Eac we beodað: se mon se ðe his gefan hamsittendne wite, þæt he ne feohte, ær ðam he him ryhtes bidde. Gif he mægnes hæbbe, þæt he his gefan beride 7 inne besitte, gehealde hine vii niht inne 7 hine on ne feohte, gif he inne geðolian wille; 7 þonne ymb vii niht, gif he wille on hand

gan 7 wæpenu sellan, gehealde hine xxx niht gesundne 7 hine his mægum gebodie 7 his friondum. . . . Gif he ðonne þæs mægenes ne hæbbe, þæt he hine inne besitte, ride to þam ealdormen, bidde hine fultumes; gif he him fultuman ne wille, ride to cyninge, ær he feohte.

[Also we command that whoever knows his foe to be sitting at home, fight not against him, till he has invited him to do right. If he have might enough to overcome his foe and besiege him, let him blockade him seven nights and not attack him, if the man will hold out so long; and then after seven nights, if he will submit and give up his weapons, let [the besieger] keep him thirty nights unharmed, and inform the kinsfolk and friends [of the captive]. . . . If he have not the might to blockade his foe, let him ride to the ealdorman and ask his support; if the ealdorman refuse, let him ride to the king before fighting.]

Cap. 42. Eac we cwedaþ þæt mon mote mid his hlaforde feohtan orwige, gif mon on ðone hlaford fiohte; swa mot se hlaford mid þam men feohtan. Æfter þære ilcan wisan mon mot feohtan mid his geborene mæge, gif hine mon on woh onfeohteð, buton wiþ his hlaforde: þæt we ne liefaþ.

[Also we declare that a man may fight for his lord without incurring a feud, when any one assails the lord. So too the lord may fight for the man. In like manner may a man fight for his blood-relation if wrongfully attacked, only not against his lord; this we do not allow.]

A.D. 886. ALFRED AND GUTHRUM'S PEACE. This is the peace that King Alfred and King Guthrum, and the 'witan' of all the English nation, and all the people that are in East Anglia, have all ordained and with oaths confirmed, for themselves and for their descendants, as well for born as for unborn, who reck of God's mercy or of ours.

1. Concerning our land boundaries; Up on the Thames, and then up on the Lea, and along the Lea unto its source, then straight to Bedford, then up on the Ouse unto Watling Street.

2. Then is this: If a man be slain, we estimate all equally dear, English and Danish, at viii. half marks of pure gold; except the 'ceorl' who resides on rented land and their [the Danes'] freedmen; they also are equally dear, either at cc. shillings.

3. And if a king's thegn be accused of man-slaying, if he dare to clear himself on oath, let him do that with xii. king's

thegns. If any one accuse that man who is of less degree than the king's thegn, let him clear himself with xi. of his equals and with one king's thegn. And so in every suit which may be for more than iv. mancuses. And if he dare not, let him pay for it threefold, as it may be valued.

4. And that every man know his warrantor for men, and for horses, and for oxen.

5. And we all ordained on that day that the oaths were sworn, that neither bond nor free might go to the host without leave, no more than any of them to us. But if it happen that from necessity any of them will have traffic with us or we with them, with cattle and with goods, that is to be allowed in this wise: that hostages be given in pledge of peace, and as evidence whereby it may be known that the party has a clean back.

A.D. *cir.* 920. *Wessex.* EDWARD; II, 1. King Edward exhorted his witan, when they were at Exeter, that they should all search out how their 'frith' might be better than it had previously been; for it seemed to him that what he had formerly commanded was more indifferently observed than it should be. He then asked them who would apply himself to its amendment, and be in that fellowship that he was, and love that which he loved, and shun that which he shunned, both on sea and on land. That is, then, that no man deny justice to another; if any one so do, let him make 'bot' as it before is written: for the first offence, with xxx. shillings; and for the second offence, the like; and for the third, with cxx. shillings to the king.

Cap. 11. I will that each reeve have a 'gemot' always once in four weeks, and so do that every man be worthy of folk-right; and that every suit have an end, and a term when it shall be concluded. If that any one disregard, let him make 'bot' as we before ordained.

A.D. *cir.* 920. *Wessex.* OF OATHS. Ðus man sceal swerigean hyldaðas. On ðone Drihten ðe ðæs halidom is fore halig, ic wylle beon N. hold 7 getrywe 7 eal lufian ðæt he lufað 7 eal ascunian þæt he ascunað, æfter Godes rihte 7 æfter woroldgerysnum, 7 næfre willes ne gewealdes, wordes ne weorces owiht don þæs him ladre bið, wið ðam ðe he me healde, swa ic earnian wille, 7 eal þæt læste þæt uncer formæl wæs, ða ic to him gebeah 7 his willan geceas.

[*Thus shall a man swear fealty oaths.* By the Lord before whom this relic is holy, I will be to N. faithful and true, and love all that he loves, and shun all that he shuns, according to God's law, and according to secular custom; and never, willingly or intentionally, by word or by work, do aught of what is loathful to him; on condition that he keep me as I am willing to deserve, and all that fulfil that our agreement was, when I to him submitted and chose his will.]

A.D. *cir.* 930. ATHELSTAN. *Conc. Greatanlea.* 2. Ond we cwædon be þam hlafordleasan mannum, ðe mon nan ryht ætbegytan ne mæg, þat mon beode ðære mægðe, ðæt hi hine to folcryhte gehamette 7 him hlaford finden on folcgemote; 7 gif hi hine ðonne begytan nyllen oððe ne mægen to þam andagan, ðonne beo he syþþan flyma, 7 hinc lecge for ðeof se þe hine tocume. Ond se ðe hine ofer ðæt feormige, forgylde hine be his were oþþe he hine be ðam ladige.

[And we have ordained, respecting those lordless men of whom no law can be got, that the kindred be commanded that they domicile him to folk-right, and find him a lord in the folk-mote; and if they then will not or cannot produce him at the term, then be he thenceforth a 'flyma', and let him slay him for a thief who can come at him; and whoever after that shall harbour him, let him pay for him according to his 'wer', or by it clear himself.]

12. Ond we cwædon þæt mon nænne ceap ne geceapige buton porte ofer xx penega; ac ceapige ðær binnon, on þæs portgerefan gewitnesse oððe on oþres unlygnes monnes, oððe eft on þara gerefena gewitnesse on folc-gemote.

[And we have ordained, that no man buy any property out of port over xx. pence; but let him buy there within, on the witness of the port-reeve, or of another unlying man; or further, on the witness of the reeves at the folk-mote.]

20. Gif hwa gemot forsitte þriwa, gilde þæs cynges oferhyrnesse; 7 hit beo seofon nihtum ær geboden, ær ðæt gemot sy. Gif he þonne ryht wyrcan nylle ne þa oferhyrnesse syllan, þonne ridan þa yldestan men to, ealle þe to þære byrig hiron, 7 nimon eall ðæt he age 7 setton hine on borh. Gif hwa þonne nylle ridan mid his geferan, gilde cynges oferhyrnesse.

[If any one [when summoned] fail to attend the gemot thrice, let him pay the king's 'oferhyrnes', and let it be announced seven days before the gemot is to be. But if he will not do right, nor pay the 'oferhyrnes', then let all the chief

men belonging to the ' burh ' ride to him, and take all that he has, and put him in ' borh '. But if any one will not ride with his fellows, let him pay the king's ' oferhyrnes '. . . .]

ATHELSTAN. *Decretum episcoporum et aliorum sapientum de Kantia de pace observanda.* Karissime ! Episcopi tui de Kantia et omnes Centescyre thaini, comites et villani tibi, domino karissimo suo, gratias agunt, quod nobis de pace nostra præcipere voluisti et de commodo nostro quaerere et consulere, quia magnum inde nobis est opus divitibus et pauperibus. Et hoc incepimus quantum diligentius potuimus, auxilio sapientum eorum quos ad nos misisti. . . .

Cap. 4. Quartum, ne aliquis recipiat alterius hominem sine licentia ejus cui ante folgavit, nec intra mercam nec extra. Et etiam ne dominus libero homini hlafordsoknam interdicat si eum recte custodierit.

Cap. 7. Septimum, ut omnis homo teneat homines suos in fidejussione sua contra omne furtum. Si tunc sit aliquis qui tot homines habeat quod non sufficiat omnes custodire, praeponat sibi singulis villis praepositum unum, qui credibilis sit ei, et qui concredat hominibus. Et si praepositus alicui hominum eorum concredere non audeat, inveniat xii. plegios cognationis suae qui ei stent in fidejussione sua. Et si dominus vel praepositus vel aliquis homo hoc infringat vel abhinc exeat, sit dignus eorum quae apud Greateleyam dicta sunt, nisi regi magis placeat alia justitia. . . . Precamur, domine, misericordiam tuam, si in hoc scripto alterutrum sit vel nimis vel minus, ut hoc emendari jubeas secundum velle tuum. Et nos devote parati sumus ad omnia quae nobis praecipere velis. . . .

ATHELSTAN. *Conc. Exon.;* cap. 1. Ond nemne man on ælces gerefan manunge swa fela manna swa man wite, þæt ungelygne syn, þæt hy beon to gewitnesse gehwylcere spræce. Ond sien heora aþas ungelygenra manna be þæs feos wyrðe butan cyre.

[And let there be named in every reeve's ' manung ' as many men as are known to be unlying, that they may be for witness in every suit. And be the oaths of these unlying men according to the worth of the property, without election.]

ATHELSTAN. *Judicia Civitatis Lundoniae.* Ðis is seo gerædnes, þe þa biscopas 7 þa gerefan, þe to Lundenbyrig hyrað, gecweden habbað 7 mid weddum gefæstnod on urum

friðgegyldum, ægðer ge eorlisce ge ceorlisce, to ecan þam domum þe æt Greatanlea 7 æt Exanceastre gesette wæron 7 æt Þunresfelda.

[This is the ordinance which the bishops and reeves belonging to London have ordained and with 'weds' confirmed, among our 'frith-gegildas' as well eorlish as ceorlish, to supplement the dooms which were fixed at Greatanlea and at Exeter and at Thunresfeld.]

Cap. iii. Þæt we tellan á x menn togædere (7 se yldesta bewiste þa nígene to ælcum þara gelaste þara þe we ealle gecwædon) 7 syððan þa hyndena heora togædere, 7 ænne hyndenman, þe þa x men mynige to ure ealre gemæne þearfe; 7 hig xi healdan þære hyndene feoh 7 witan, hwæt hig forsyllan, þonne man gildan sceole, 7 hwæt hig eft nimam, gif us feoh arise æt urum gemænum spræce; 7 witon eac, þæt ælc gelast forðcume þara þe we ealle gecweden habbað to ure ealra þearfe, be xxx pæninga oððe be anum hryðere, þæt eall gelæst sy, þæt we on urum gerædnessum gecweden habbað 7 on ure forespæce stænt.

[That we count always x. men together, and the chief should direct the nine in each of those duties which we have all ordained; and [count] afterwards their 'hyndens' together, and one 'hynden man' who shall admonish the x. for our common benefit; and let these xi. hold the money of the 'hynden', and decide what they shall disburse when aught is to pay, and what they shall receive, if money should arise to us at our common suit; and let them also see that every contribution be forthcoming which we have all ordained for our common benefit, after the rate of xxx. pence or one ox; so that all be fulfilled which we have ordained in our ordinances and which stands in our agreement.]

Cap. iv. Þæt ælc man wære oðrum gelastfull ge æt spore ge æt midrade þara þe þa gebodu gehyrde, swa lange swa þe man spor wiste. Ond syððan him spor burste, þæt man funde ænne man swa of ii teoðungum, þær mare folc sig, swa of anre teoðunge þær læsse folc sy, to rade oððe to gange, buton ma þurfe, þider þonne mæst þearf sy, 7 hig ealle gecwædon.

[That each man of those who hear the summons shall help his fellow both in following the trail, and in riding with him, so long as he knows the trail (of the lost cattle). And when the trail is broken, let one man be provided from every two tithings, where the population is more numerous, and from

every tithing, where it is sparse (unless more be needed), to go whither it is needful, and as all ordain.]

Cap. viii. 1. Þæt we us gegaderian á emban ænne monaþ, gif we magon 7 æmton habban, þa hyndenmenn 7 þa þe ða teoþunge bewitan, swa mid byttfyllinge swa elles swa us toanhagie, 7 witen hwæt ure gecwydræddene gelæst sy; 7 habban þa xii menn heora metscype togædere 7 fedan hig swa swa hig sylfe wyrðe munon, 7 dælon ealle þa metelafe Godes þances.

[That we gather to us once in every month, if we can and have leisure, the 'hynden-men' and those who direct the tithings, as well with 'bytt-fylling' as else it may concern us, and know what of our agreement has been executed: and let these xii. men have their refection together, and feed themselves according as they may deem themselves worthy, and deal the remains of the meat for love of God.]

2. And gif þonne þæt gebyrige, þæt ænig mægð to þan strang sy, and to þam mycel, innon landes oððe uton landes, twelfhynde oððe twyhynde, þæt us ures rihtes wyrnen 7 þone þeof foren forstande, þæt we ridan be eallum mannum to mid þam gerefan þe hit on his monunge sy. And eac sendan on twa healfa to þam gerefum 7 wilnian to heom fultum, swa us þonne cinelic þince æt swa micelre spræce.

[And if it then should happen that any kin be so strong and so great, within land or without land, whether xii. 'hynde' or 'twy-hynde'; that they refuse us our right, and stand up in defence of a thief; that we all of us ride thereto with the reeve within whose 'manung' it may be. And also send to the reeves on both sides and ask them for the help of so many men as seems sufficient for so great a business.]

9. . . . Gif we þonne aslaciað þæs friðes 7 þæs weddes, þe we seald habbað 7 se cyng us beboden hafað, þonne mage we wenan oððe georne witan þæt þas þeofas willað rixian gyta swyðor þonne hig ær dydon.

[But if we relax this peace ordinance, and the pledges that we have taken, and that the King enjoined upon us, then we may expect, or rather know for certain that these thieves will have the upper hand even more than in the past.]

A.D. *cir.* 943. EDMUND. *Conc. Culinton.* Haec est institutio quam Eadmundus rex et episcopi sui, cum sapientibus suis, instituerunt apud Culintonam, de pace et juramento faciendo.

1. *De Juratione quae fiebat Eadmundo regi.* In primis ut

omnes jurent in nomine Domini, pro quo sanctum illud sanctum est, fidelitatem Eadmundo regi, sicut homo debet esse fidelis domino suo, sine omni controversia et seductione, in manifesto, in occulto, in amando quod amabit, nolendo quod nolet ; et a die qua juramentum hoc dabitur, ut nemo concelet hoc in fratre vel proximo suo plus quam in extraneo.

7. *Ut quisque suos faciat credibiles, et de infamatis, et de his qui haec praecepta negligunt.* Et omnis homo credibiles faciat homines suos et omnes qui in pace et terra sua sunt. Et omnes infamati et accusationibus ingravati sub plegio redigantur. Et praepositus vel tainus, comes vel villanus, qui hoc facere nolet, aut disperdet, emendet cxx. s. et sit dignus eorum quae supra dicta sunt.

A. D. 959–975. EDGAR. *Ordinance of the Hundred.*

It cannot be determined without question what is the historical connexion between the system of the Hundred, as exemplified in the hundred warriors and the hundred counsellors of the Germania, and the later institution of police organization and territorial division known under this name in England. The existence of a territorial subdivision intermediate between the vicus or township and the shire or underkingdom, such as is known in various parts of England in the present day as the hundred, the wapentake, the lathe, or the rape, may be regarded as proved by numerous passages in Bede and the Chronicles ; and this subdivision may be regarded as answering roughly to the *pagus* of Tacitus or the *gau* of Germany. But it is not equally clear when, how, or why the name of ' hundred ' was first applied in the majority of the counties to this subdivision.[1] It is sometimes stated that the hundred is a primitive subdivision

[1] Dr. Liebermann suggests that the *boldgetæl* mentioned in c. 37 of Alfred's laws is the unit which afterwards came to be known as the hundred (*Gesetze*, vol. ii. p. 26). Apart from this passage there seems no direct evidence for the existence of the hundred before the reign of Edward the Elder. Mr. Chadwick, *Studies on Anglo-Saxon Institutions*, p. 244 (Cambridge, 1905), argues that the name and organization of the tenth-century hundred are borrowed from Scandinavia. This is supported by Dr. Liebermann (*Deutsche Literaturzeitung*, 1905, p. 12).

consisting of a hundred hides of land, or apportioned to a hundred families: the great objection to which theory is the impossibility of reconciling the historical hundreds with any such computation. Another theory regards the use of the term as much more modern, and as arising from the police arrangement exemplified in the following document, and in two much earlier ones of Childebert and Clothaire, of the year 595, which exist among the Capitularies of the Frank kings. Upon this theory the 'hundred' was originally the association of a hundred persons for the conservation of peace and execution of law, parallel with the later institution of the tithing or association of ten freemen for a similar purpose. In process of time, the name of 'hundred' would naturally extend to the territory protected by this association, as the tithing itself became, in later times and in certain districts, a local division. This theory is more probable than the former, but requires to be adjusted in point of date and locality. We are not to regard the ordinances of Childebert and Clothaire, or this of Edgar, as the institution of an entirely new organization, and as creating the district as well as the police system from which it took its name. It would be as difficult to prove any historical connexion between the decrees of 595 and the ordinance of Edgar, as it would to trace either directly to the 'centeni' of the Germania. But it is extremely probable that both legislators utilized an existing machinery which was originally and closely allied to the centeni of Tacitus. There are thus three points: the existence of the subdivision of the shire, which is unquestionable;[1] the existence of the machinery of the hundred for police purposes, which emerges in these ordinances, but which may fairly be presumed to be traceable to the analogy of the primitive usage, and which may have been customary for ages, during which there is no direct record of

[1] This assertion is too confident. We have evidence in Kent for the early existence of a division (*regio*) smaller than the shire. But these *regiones* cannot be identified with the Kentish hundreds of a later time. See Mr. Chadwick's paper in *Trans. Royal Hist. Soc.*, xiv. p. 187 (1900).

it; and, thirdly, the application of the personal name and organization of the hundred to the already existing territorial division, which occurs in Germany as well as in England. The last thus viewed becomes of minor importance; as the special names applied to the particular hundreds must in most cases have existed previous to the application. The hundred-court was the ordinary court of justice among the Franks and bore the name of *mallus*. The law of Childebert and Clothaire recognizes the existence of the territorial hundred even whilst instituting a new measure of police. The law of Edgar has a very much wider operation, regulating the practice of the hundred-court in other respects. The coincidence in the wording of the two documents is remarkable, rather as exhibiting the traces of ancient common institutions than as proving any direct connexion.

Decretio Childeberti regis, A.D. 596; (*Mon. Germ. Historica*, Leges i. p. 15). Cap. IX. Si quis centenario aut cuilibet judici noluerit super malefactorem adjuvare, lx. solidis omnis modis condemnetur.

X. Et quicunque servum criminosum habuerit et ei judex rogaverit ipsum praesentare, et noluerit, suum eregildum omnino componat.

XI. Similiter convenit ut si furtus factus fuerit, capitale de praesente centena restituat, et causa centenarium cum centena requirat.

XII. Pari conditione convenit ut si una centena in alia centena vestigium secuta fuerit et invenerit vel in quibuscunque fidelium nostrorum terminis vestigium miserit, et ipsum in aliam centenam minime expellere potuerit, aut convictus reddat latronem, aut capitale de praesente restituat, et cum duodecim personis se ex hoc sacramento exuat.

Decretio Clotharii regis, A.D. 511–558. (*M. G. H.*, Leges i. p. 5) Decretum est ut qui ad vigilias constitutas nocturnas fures non caperent, eo quod per diversa intercedente conludio scelera sua praetermissas custodias exercerent, centenas fierent. In cujus centena aliquid deperierit, capitale qui perdiderit recipiat, et latro, vel si in alterius centenam appareat deduxisse et ad hoc admonitus si neglexerit, quinos solidos condemnetur; capitale tamen qui perdiderat a centena illa accipiat absque dubio, hoc est de secunda vel tertia. . . .

A. D. 959–975. EDGAR. *This is the ordinance how the Hundred shall be held.*

1. Ærest þæt hi heo gegaderian á ymb feower wucan, 7 wyrce ælc man oðrum riht.

[First, that they meet every four weeks; and that every man do justice to another.]

2. Dæt men faran on ryd æfter ðeofan. Gyf neod on handa stande, cyðe hit man ðam hundredesmen, 7 he syððan ðam teoðingmannum; 7 faran ealle forð, ðær him God wisige, þæt hi tocuman moton; do ðam ðeofe his riht, swa hit ær Eadmundes cwide wæs. And sylle mon þæt ceapgyld ðam ðe þæt yrfe age; 7 dæle man þæt oðer on twa: healf ðam hundrede, healf ðam hlaforde—butan mannum; 7 fo se hlaford to ðam manum.

[*That a thief shall be pursued.* If there be present need, let it be made known to the hundredman, and let him make it known to the tithingmen; and let all go forth to where God may direct them to go. Let them do justice on the thief, as it was formerly the enactment of Edmund. And let the 'ceap-gild' be paid to him who owns the cattle, and the rest be divided into two; half to the hundred, half to the lord, excepting men, and let the lord take possession of the men.]

3. And se man ðe ðis forsitte 7 ðæs hundredes dom forsace, 7 him mon eft þæt illce gerecce, gesylle man ðam hundrede xxx peninga 7 æt ðam æftran cyrre syxtig penega, half ðam hundrede, half ðam hlaforde. Gif hit ðriddan siðe do, sylle healf pund; æt ðam feorðan cyrre ðolie ealles ðæs he age 7 beo utlah, buton him se cyng eard alyfe.

[And the man who neglects this, and denies the doom of the hundred, and the same be afterwards proved against him, let him pay to the hundred xxx. pence; and for the second time lx. pence, half to the hundred, half to the lord. If he do so a third time, let him pay half a pound; for the fourth time, let him forfeit all that he owns, and be an outlaw, unless the king allow him to remain in the country.]

4. And we cwædon be uncuðum yrfe, þæt nan man næfde, buton he hæbbe ðæs hundredesmannes gewitnessa oððe ðæs teoðingmannes 7 se sy wel getrywe. And buton þara oðer hæbbe, nele him mon nænne team geþafian.

[And we have ordained, concerning unknown cattle, that no one should possess it without the testimonies of the hundred man, or of the tithingman, and that he be a well trusty man; and unless he have either of these, let no vouching to warranty (*team*) be allowed him.]

5. Eac we cwædon, gif him hundred bedrife trod on oðer

hundred, þæt mon cyðe ðam hundredesmen, 7 he ðonne ðær midfare. Gif he hit forsitte, gesylle ðam cynge ðrittig scill'.

[We have also ordained, if the hundred pursue a track into another hundred, that notice be given to the hundredman, and that he then go with them. If he neglect this, let him pay xxx. shillings to the king.]

6. Gif hwa riht forbuge 7 uthleape, forgylde þæt angylde se ðe hine to ðam hearme geheold. And gyf man hine teo, þæt he hine utsceote, geladige hine swa hit on lande stande.

[If any one flinch from justice and escape, let him who held him to answer for the offence pay the 'an-gylde'. And if any one accuse him of having sent him away, let him clear himself, as it is established in the country.]

7. On hundrede swa on oðer gemote we wyllað, þæt mon folcriht getæce æt ælcere spæce, 7 andagie hwænne man þæt gelæste. And se ðe ðone andagan brece—buton hit sy ðurh hlafordes geban—gebete mid xxx scill'., 7 to gesetton dæge gelæste þæt he ær sceolde.

[In the hundred, as in any other 'gemot', we ordain that folk-right be pronounced in every suit, and that a term be fixed when it shall be fulfilled. And he who shall break that term, unless it be by his lord's decree, let him make 'bot' with xxx. shillings, and on the day fixed fulfil that which he ought to have done before.]

8. Hryðeres belle, hundes hoppe, blæshorn: ðissa ðreora ælc bið anes scill'. weorð; 7 ælc is melda geteald.

[An ox's bell, and a dog's collar, and a blast-horn—either of these three shall be worth a shilling, and each is reckoned an informer.]

9. Ðæt isen, ðe bið to ðrimfealdum ordale, þæt wege iii pund.

[Let the iron that is for the threefold ordeal weigh iii. pounds.]

A. D. 959–962. EDGAR. *Ecclesiastical Ordinance.* This is the ordinance that King Edgar, with the counsel of his witan, ordained, in praise of God, and in honour to himself, and for the behoof of all his people.

1. These, then, are first: That God's churches be entitled to every right; and that every tithe be rendered to the old minster to which the district belongs; and that be then so paid, both from a thegn's 'in-land' and from 'geneat' land, so as the plough traverses it. . . .

Secular Ordinance. Cap. 2. And let no one apply to the king in any suit, unless he at home may not be worthy of law, or cannot obtain law. If the law be too heavy, let him seek a mitigation of it from the king; and for any 'bot'-worthy crime let no man forfeit more than his 'wer'.

Cap. 5. And sece man hundredgemot, swa hit ær geset wæs; 7 habbe man þriwa on geare burhgemot 7 tuwa scirgemot; 7 þær beo on ðære scire biscop 7 se ealdorman, 7 þær ægðer tæcan ge Godes riht ge woruldriht.

[And let the hundred gemot be attended as it was before fixed; and thrice in the year let a burh-gemot be held, and twice, a shire-gemot; and let there be present the bishop of the shire and the ealdorman, and there both expound as well the law of God as the secular law.]

Cap. 6. And finde him ælc man, þæt he borh hæbbe; 7 se borh hine þonne to ælcum riht gelæde 7 geealde; 7 gyf hwa þonne woh wyrce 7 utoðberste, abere se borh þæt he aberan scolde. Gyf hit þyfð beo, 7 gyf he hine binnan twelf monðum gelangian mæge, agyfe hine to rihte, 7 him man agyfe þæt he ær sealde.

[And let every man so order that he have a 'borh'; and let the 'borh' then bring and hold him to every justice; and if any one then do wrong and run away, let the 'borh' bear that which he ought to bear. But if it be a thief, and if he can get hold of him within twelve months, let him deliver him up to justice, and let there be rendered unto him what he before had paid.]

Cap. 8. And let one money pass throughout the king's dominion; and that let no man refuse; and let one measure and one weight pass, such as is observed at Winchester. . . .

A. D. 962–963. *Supplement;* Cap. 2. And ic wille þæt woruldgerihta mid Denum standan be swa godum lagum, swa hy betste geceosan mægen. Stande þonne mid Anglum þæt ic 7 mine witan to mina yldrena domum geyhton, eallum leodscype to þearfe. Sy þeahhwæðere þes ræd gemæne eallum leodscipe, ægðer ge Anglum ge Denum ge Bryttam, on ælcum ende mines anwealdes. . . .

[And I will that secular rights among the Danes be fixed by such good laws as they may choose. But among the English let that law hold good which I and my Witan added to the laws of my forefathers, for the profit of the whole people. None the less let the following ordinance hold good for all

people, English or Danish or Welsh in every district of my realm. . . .]

Cap. 3. Đæt is þonne, þæt ic wille, þæt ælc mon sy under borge ge binnan burgum ge buton burgum; 7 gewitnes sy geset to ælcere byrig 7 to ælcum hundrede.

[This, then, is what I will: that every man be under 'borh', both within the 'burhs' and without the 'burhs'; and let witness be appointed to every 'burh' and to every hundred.]

Cap. 4. To every 'burh' let there be chosen xxxiii. as witness.

Cap. 5. To small 'burhs' and in every hundred xii. unless ye desire more.

Cap. 6. And let every man, with their witness, buy and sell every of the chattels that he may buy or sell, either in a burh or in a wapentake; and let every of them, when he is first chosen as witness, give the oath that he never, neither for money, nor for love, nor for fear, will deny any of those things of which he was witness, nor declare any other thing in witness save that alone which he saw or heard; and of such sworn men let there be at every bargain two or three as witness.

Cap. 15. Now let Earl Oslac and the whole army that dwells in his earldom, see to it that this hold good, for the glory of God and the health of all our souls and the peace of the whole people. And let many writs be written, giving these laws, and let them be sent to Ealdorman Ælfhere and Ealdorman Æthelwine, that they may publish them, so that this ordinance may be known both to rich and poor.

A.D. 978–1016. ETHELRED. I. This is the ordinance which King Ethelred and his witan ordained as 'frith-bot' for the whole nation, at Woodstock, in the land of the Mercians, according to the law of the English.

Cap. 1. Þæt is, þæt ælc freoman getreowne borh hæbbe þæt se borh hine to ælcon rihte gehealde, gif he betyhtlad warðe. Gyf he ðonne tyhtbysig sy, gange to þam þryfealdan ordale. Gif se hlaford sæcge, þæt him naðer ne burste ne að ne ordal, syððan þæt gemot wæs æt Bromdune, nime se hlaford him twegen getreowe þegenas innan þam hundrede, 7 swerian, þæt him næfre að ne burste ne ordal, ne he þeofgyld ne gulde—butan he þone gerefan hæbbe, þe þæs wyrðe sy, þe þæt don mæge. Gif se að þonne forðcume; ceose se man þonne, þe þær betyhtlet sy, swa hweðer he wylle swa anfeald ordal swa pundes wurþne að innan þrim hundredan, ofer þrittig peninga.

Gif hy þonne aþ syllan ne durron, gange to þam þryfealdan ordale. . . . And hæbbe ælc hlaford his hiredmen on his agenon borge.

[That is, that every freeman have a true 'borh', that the 'borh' may present him to every justice, if he should be accused. But if he be 'tyhtbysig', let him go to the threefold ordeal. If his lord say that he has failed neither in oath nor ordeal since the gemot was at Bromdun, let the lord take with him two true thegns within the hundred, and swear that never hath oath failed him nor ordeal, nor had he paid 'theof-gyld'; unless he have the reeve who is competent to do that. If then the oath succeed, let the man then who is there accused choose whichever he will, either single ordeal, or a pound-worth oath, within the three hundreds, for above thirty pence. If they dare not take the oath, let him go to the triple ordeal. . . . And let every lord have his household in his own 'borh'.]

II. cap. 6. Gyf hit binan byrig gedon bið, seo friðbræc, fare seo buruhwaru sylf to 7 begyte ða banan cuce oððe deade, [oððe] heora nyhstan magas, heafod wið heafde. Gyf hy nellan, fare se ealdorman to; gif he nelle, fare se cyning to; gif he nelle, licge se ealdordom on unfriðe.

[If the frith-breach be committed within a 'burh', let the inhabitants of the 'burh' themselves go and get the murderers, living or dead, or their nearest kindred, head for head. If they will not, let the ealdorman go; if he will not, let the king go; if he will not, let the ealdordom lie in 'unfrith'.]

III. cap. 3. And þæt man habbe gemot on ælcum wæpentake; 7 gan ut þa yldestan xii þegnas 7 se gerefa mid, 7 swerian on þam haligdome, þe heom man on hand sylle, þæt hig nellan nænne sacleasan man forsecgean ne nænne sacne forhelan.

[And that a gemot be held in every wapentake; and the xii. chief thegns go out, and the reeve with them, and swear on the relic that is given them in hand, that they will accuse no innocent man, nor conceal any guilty one. . . .]

Cap. 11. And let no man have any soken over a king's thegn except the king himself.

V. cap. 2. And the ordinance of our lord and of his Witan is, that Christian men and uncondemned be not sold out of the country, especially into a heathen nation; and be it jealously guarded against, that those souls perish not that Christ bought with his own life.

Cap. 26. But let God's law be henceforth zealously loved, by word and deed, then will God soon be merciful to this nation: and let 'the maintenance of the peace and the coinage' everywhere in the country, and 'of burhs' in every province, and of fyrd-service (fyrdung) also be diligently attended to, according to what is always prescribed when there is need.

Cap. 28. And if any one without leave return from the 'fyrd' in which the king himself is, let it be at the peril of himself and all his estate; and he who else returns from the 'fyrd', let him be liable in cxx. shillings.

A. D. 1016–1035. CANUTE. *Secular Dooms;* cap. 12. Ðis syndon þa gerihta, þe se cingc ah ofer ealle men on Wessexan: þæt is mundbryce 7 hamsocne, forsteal 7 fyrdwite, butan he hwæne furðor germæðrian wylle.

[These are the rights that the king has over all men in Wessex: that is, mundbryce and hâmsocn, forsteal and fyrdwite, unless he will honour any man more highly.]

Cap. 14. And on Dæna lage he ah fihtewita 7 fyrdwita, gryðbryce 7 hamsocne, butan he hwæne furðor gemæðrian wylle.

[And in the Danelaw he has fiht-wite and fyrdwite, gritbrice and hamsocn, unless he will honour any man more highly.]

Cap. 17. And ne gesece nan man ðone cinge, butan he ne mote beon nanes rihtes wyrðe innan his hundrede. And sece man hundredes gemot be wite, eallswa hit riht is to secenne.

[And let no one apply to the king unless he may not be entitled to any justice within his hundred; and let the hundred gemot be applied to under penalty of the 'wite', so as it is right to apply to it.]

Cap. 18. And hæbbe man þriwa on geare burhgemot 7 tuwa scirgemot, butan hit oftor sig. And þær beo on þære scire bisceop 7 se ealdorman, 7 þær ægðer tæcan ge Godes riht ge woruldriht.

[And thrice a-year let there be a 'burh-gemot', and twice a 'shire-gemot'; unless it be oftener. And let there be present the bishop of the shire and the ealdorman, and there let both expound as well the law of God as the secular law.]

Cap. 19. And let no man take any distress either in the shire or out of the shire, before he has twice demanded his right in the hundred. If at the third time he have no justice, then let him go at the fourth time to the 'shire-gemot', and

let the shire appoint him a fourth term. If that then fail, let him take leave that he may seize his own wherever he can.

Cap. 20. And we wyllaŏ, þæt ælc freoman beo on hundrede 7 on teoðunge gebroht, þe lade wyrče beon wylle oððon weres wyrče, gif hine hwa teon wylle, ofer þæt he byð xii wintre. . . . Si he heorðfæst, si he folgere, þæt ælc si on hundrede 7 on borge gebroht, 7 gehealde se borh hine 7 gelæde to ælcan rihte.

[And we will that every free man be brought into a hundred and into a tithing, if he will be worthy of his law or of his were, if any man accuse him, as soon as he is twelve years old. . . . And that every one, whether householder or servant, be brought into a hundred and in 'borh'; and let the 'borh' hold and lead him to every plea. . . .]

Cap. 21. And we will that every man above xii. years make oath that he will neither be a thief nor cognisant of theft.

Cap. 69. This then is the alleviation which it is my will to secure to all the people of that which they before this were too much oppressed with. That then is first; that I command all my reeves that they justly provide for me from my own, and maintain me therewith; and that no man need give them anything as 'feorm-fultum' unless he himself be willing. And if any one after that demand a 'wite', let him be liable in his 'wer' to the king.

Cap. 70. And if any one depart this life intestate, be it through his neglect, be it through sudden death; then let not the lord draw more from his property than his lawful heriot. And according to his direction, let the property be distributed very justly to the wife and children and relations, to every one according to the proportion that is his due.

Cap. 72. And let the heriots be as it is fitting to the degree. An earl's such as thereto belongs, that is, eight horses, four saddled and four unsaddled, and four helmets and four coats of mail, and eight spears and as many shields, and four swords and 200 mancuses of gold. And after that, a king's thegn's, of those who are nearest to him; four horses, two saddled and two unsaddled, and two swords and four spears and as many shields, and a helmet and a coat of mail and fifty mancuses of gold. And of the medial thegn a horse and his trappings and his arms; or his 'healsfang' in Wessex; and in Mercia two pounds; and in East Anglia two pounds. And the heriot of a king's thegn among the Danes, who has his

soken, four pounds. And if he have further relation to the king, two horses, one saddled and the other unsaddled, and one sword and two spears and two shields and fifty mancuses of gold ; and he who is of less means, two pounds.

Cap. 81. And I will that every man be entitled to his hunting in wood and in field, on his own possession. And let every one forego my hunting : take notice where I will have it untrespassed on, under penalty of the full ' wite '.

Cap. 83. And I will that every man be entitled to ' grith ' to the gemot and from the gemot, except he be a notorious thief.

A. D. *cir.* 1029–1060. *Of People's Ranks and Law.* (1) Hit wæs hwilum on Engla lagum, þæt leod 7 lagu for be geþincðum ; 7 þa wæron leodwitan weorðscipes wyrðe, ælc be his mæðe, eorl 7 ceorl, þegen 7 þeoden.

[It was whilom, in the laws of the English, that people and law went by ranks, and then were the counsellors of the nation of worship worthy, each according to his condition, eorl and ceorl, thegen and theoden.]

(2) And gif ceorl geþeah, þæt he hæfde fullice fif hida agenes landes, cirican 7 kycenan, bellhus 7 burhgeat, setl 7 sundernote on cynges healle, þonne wæs he þanon forð þegenrihtes weorðe.

[And if a ceorl throve, so that he had fully five hides of his own land, church and kitchen, bell-house and burh-gate, seat and special duty in the king's hall, then was he thenceforth of thegn-right worthy.]

(3) And gif þegen geþeah, þæt he þenode cynge 7 his radstefne rad on his hirede, gif se þonne hæfde þegen, þe him filigde, þe to cinges utware fif hida hæfde, 7 on cinges sele his hlaforde þenode 7 thriwa mid his ærende gefore to cinge, se moste syððan mid his forače his hlaford aspelian æt mistlicon neodan 7 his onspæce geræcan mid rihte, swa hwær swa he sceolde.

[And if a thegn throve, so that he served the king, and on his summons rode among his household ; if he then had a thegn who him followed, who to the king's ' utware ' five hides had, and in the king's hall served his lord, and thrice with his errand went to the king, he might thenceforth with his ' foreoath ' his lord represent at various needs, and his plaint lawfully conduct, wheresoever he ought.]

4. And he who so prosperous a vicegerent had not, swore for himself according to his right, or it forfeited.

5. And if a thegn throve so that he became an eorl, then was he thenceforth of eorl-right worthy.

6. And if a merchant throve, so that he fared thrice over the wide sea by his own means, then was he thenceforth of thegn-right worthy.

7. And if there a scholar were, who through learning throve, so that he had holy orders, and served Christ, then was he thenceforth of rank and power so much worthy, as then to those orders rightfully belonged, if he himself conducted so as he should ; unless he should misdo, so that he those orders' ministry might not minister.

8. And if it happened that any one a man in orders, or a stranger, anywhere injured, by word or work, then pertained it to king and to bishop, that they that should make good as they soonest might.

A. D. 960–1060. *Rectitudines Singularum Personarum.*

(2) *Geneates riht.* Geneatriht is mistlic be ðam ðe on lande stænt : on sumon he sceal landgafol scyllan 7 gærsswyn on geare 7 ridan 7 auerian 7 lade lædan, wyrcan 7 hlaford feormian, ripan 7 mawan, deorhege heawan 7 sæte haldan, bytlian 7 burh hegegian, nigefaran to tune feccan, cyric-sceat syllan 7 ælmesfeoh, heafodwearde healdan 7 horswearde, arendian fyr swa nyr, swa hwyder swa him mon to tæcð.

[*Geneat-right.* Geneat-right is various according to the rule of the estate ; in some places he must pay land-rent, and a swine yearly for grass-rent, and ride and carry with his beasts, and haul loads, work and provide food for his lord, reap and mow, cut deer-hedges, bring travellers to the township, pay church-scot and alms-money, keep watch and guard the horses, and go errands far and near, wherever he is ordered.]

3. *Kotsetlan riht.* Kotesetlan riht be ðam ðe on lande stent : on sumon he sceal ælce Mondæge ofer geares fyrst his laforde wyrcan oðð iii dagas ælcre wucan on hærfest. . . . Ne ðearf he landgafol syllan. Him gebyriað v æceres to habbanne ; mare gyf hit on lande ðeaw sy ; 7 to lytel hit bið, beo hit a læsse ; forðan his weorc sceal beon oftræde. . . .

[*Cotter's right.* The cotter's right is according to the custom of the estate ; in some places he must work each Monday in the year for his lord, or three days in each week at harvest-tide. . . . He has not to pay land-rent. He is wont to have five

acres; more, if it is the custom of the estate. And if he have less, it is too little; for his service must be frequent.]

4. *Gebures gerihte.* Geburgerihta syn mislice: gehwar hy syn hefige gehwar eac medeme. On sumen lande is, þæt he sceal wyrcan to wicweorce ii dagas swilc weorc, swilc him man tæcð, ofer geares fyrst ælcre wucan, 7 on hærfest iii dagas to wicweorce 7 of Candelmæsse oð Eastran iii; gif he aferað, ne ðearf he wyrcan ða hwile ðe his hors ute bið. He sceal syllan on Michaeles mæssedæig x gafolpæningas 7 on Martinus mæssedæg xxiiii systra beres 7 ii henfugelas, on Eastran an geong sceap oððe ii pæningas.

[*Gebur-right.* The 'gebur's' duties are various, in some places heavy, in others light. On some estates the rule is that each week in the year he shall do two days of week-work, whatever is enjoined on him; and in harvest three days of week-work, and three days from Candlemass to Easter; if he lends his horse, he shall do no work while his horse is away. At Michaelmas he must pay ten pence for 'gafol'; and at Martinmass twenty-four sesters of malt and two hens; at Easter a lamb or two pence.]

A. D. 1020. Charter of Canute.

The following Charter affords a most important illustration of the policy of Canute with regard to his English subjects, and of the general spirit of his legislation after his rule was universally admitted. It probably belongs to the year 1020, in which the king returned from Denmark, as the earl Thurcyl, to whom it is addressed, was outlawed the following year. The laws of Edgar had been chosen by the Danes and English at Oxford in 1018. The document was discovered, in a York Gospel Book, by Bishop Stubbs. The Anglo-Saxon text is printed by Liebermann (*Gesetze*, i. 273).

Canute, the king, greets his archbishops and his suffragan bishops, and Thurcyl the earl, and all his earls and all his people, twelfhynde and twyhynde, clerk and lay, in England, friendly; and I do you to wit that I will be kind lord and unfailing to God's rights and to right secular law. I took to my remembrance the writing and the word that archbishop Lyfing brought me from Rome from the pope, that I should everywhere increase the glory of God and put down wrong,

and work full peace by the might that God would give me. Now I shrank not from my cost whilst there was unpeace among you; now have I, with God's help, removed it at my own cost. Then was I told that we were threatened with more harm than pleased us; and then went I myself into Denmark, with the men that went with me, from whence most harm came to you; and that have I with God's help ensured that never henceforth should war come to you from thence whilst ye rightly hold to me, and my life lasteth. Now I thank God Almighty for his help and mercy, that I have so allayed the great harms that threatened us, that we need expect from thence no harm, but rather full support and deliverance if need be. Now I will that we all reverently thank God Almighty for the mercy that he has wrought for our help. Now I beseech my archbishops and all my suffragan bishops that they all be attentive about God's right, every one in his district which is committed to him; and also my ealdormen I command that they help the bishops in maintaining God's rights and my royal authority and the weal of all the people. If any be so bold, clerk or lay, Dane or English, as to go against God's law and against my royal authority, or against secular law, and be unwilling to make amends, and to alter according to my bishops' teaching, then I pray Thurcyl my earl, and also command him, that he bend that unrighteous one to right if he can; if he cannot, then will I that he with the strength of us both destroy him in the land or drive him out of the land, be he of great account or small; and also I command all my reeves, by my friendship and by all that they own, and by their own life, that they everywhere hold my people rightly and judge right judgments by the shire bishops' witness, and do such mercy therein as the shire bishop thinks right, and as may be allowed; and if any harbour a thief, or come forward to protect him, be he answerable to me as the thief should, unless he can clear himself towards me with full purgation. And I will that all people, clerk and lay, hold fast Edgar's law, which all men have chosen and sworn to at Oxford, for that all the bishops say that it right deeply offends God, that a man break oaths or pledges; and likewise they further teach us that we should with all might and main, alike seek, love, and worship the eternal merciful God, and eschew all unrighteousness; that is, slaying of kinsmen, and murder, and perjury, and witch-

craft and enchantment, and adultery, and incest; and also we charge in the name of God Almighty, and of all his saints, that no man be so bold as to marry a hallowed nun or mynchen; and if any have done so, be he outlaw towards God, and excommunicated from all Christendom, and answerable to the king in all he has, unless he quickly alter and deeply make amends to God; and further still, we admonish that men keep Sunday's festival with all their might, and observe it from Saturday's noon to Monday's dawning; and no man be so bold that he either trade or attend any court on that holy day; and all men, poor and rich, seek their church, and ask forgiveness for their sins, and keep earnestly every ordained fast, and earnestly honour the saints that the mass priests shall bid us, that we may all together through the mercy of the everlasting God and the intercession of his saints come to the joy of the kingdom of heaven, and dwell with Him who liveth and reigneth for ever without end. Amen.

[*York Gospel Book, MS.*]

PART III

SELECT CHARTERS AND EXCERPTS; *Norman Period*

A.D. 1066–1087. WILLIAM I

ARCHBISHOPS OF CANTERBURY: Stigand, 1052–1070; Lanfranc, 1070–1089. JUSTICES: Odo of Bayeux and William Fitz-Osbern, 1067; William de Warenne and Richard Fitz-Gilbert, 1073; Lanfranc of Canterbury, Geoffrey Bishop of Coutances, and Robert Count of Mortain, 1078. CHANCELLORS: Regenbald, 1066; Herfast afterwards Bishop of Elmham, 1068; Osbern, afterwards Bishop of Exeter, 1070–1074; Osmund, afterwards Bishop of Salisbury, 1074–1078; Maurice, afterwards Bishop of London, 1078–1086.

WILLIAM THE CONQUEROR having, at the battle of Hastings, wrested the kingdom of England from Harold, was elected by the witan, and crowned after making the usual compact with the nation. He showed himself prepared to rule as the West Saxon line of kings before him had done, and found the forfeited demesnes and jurisdictions of the family of Godwin sufficient to satisfy for the moment the demands of his servants and allies. But the tyranny of Odo of Bayeux and William Fitz-Osbern, who were left behind as justices regent on the occasion of his first visit to Normandy, produced a resistance which was not extinguished until a very large portion of the native landowners had suffered forfeiture, and a very large substitution of Norman nobles in both lands and jurisdictions followed. This substitution had the twofold effect of producing a gradual change in the institutions of the country, from the highest to the lowest, towards the Norman or properly feudal type, and of thus raising up a nobility covetous of extensive estates and hereditary jurisdictions, which must in the long run cripple the ancient power of the king and the system of self-government which still subsisted among the people. The struggles of the English against their conquerors were

after a short interval succeeded by a series of struggles between the Crown and the Barons, which began in the conspiracy of Ralph Guader and Roger son of William Fitz-Osbern, and continued until the nobility of the Conquest was nearly extinct. The reign of the Conqueror witnessed only the opening of this long contest, which had the effect in its turn of compelling the kings to foster every remnant of local independence amongst the English as a check on the rebellious and tyrannical policy of the great feudatories. But this did not prevent the rapid assimilation of the government, in its highest range, to the feudal model; which was the most prominent result of the Conquest, regarded in its constitutional aspect.

Excerpts.

A. D. 1066. WILL. PICTAV., *Gesta Willelmi*, ed. Maseres, p. 145. Die ordinationi decreto, elocutus ad Anglos condecenti sermone Eboracensis archiepiscopus, aequitatem valde amans, aevo maturus, sapiens, bonus, eloquens, an consentirent eum (Willelmum) sibi dominum coronari, inquisivit. Protestati sunt hilarem consensum universi minime haesitantes, ac si caelitus una mente data unaque voce. Anglorum voluntati quam facillime Normanni consonuerunt, sermocinato ad eos ac sententiam percunctato Constantini praesule. . . . Sic electum consecravit idem archiepiscopus, aeque sancta vita carus et inviolata fama, imposuit ei regium diadema ipsumque regio solio favente multorum praesentia praesulum et abbatum. . . .

FLOR. WIGORN. (ed. Thorpe), i. 229. Consecratus est honorifice, prius, ut idem archipraesul ab eo exigebat, ante altare Sancti Petri Apostoli, coram clero et populo jurejurando promittens se velle sanctas Dei ecclesias ac rectores illarum defendere, necnon et cunctum populum sibi subjectum juste et regali providentia regere, rectam legem statuere et tenere, rapinas injustaque judicia penitus interdicere.

PETERBOROUGH CHRONICLE, 1066 (Rolls ed. i. 337). And Willelm þis land geeode · 7 com to Westmynstre · 7 Ealdred arceb, hine to cynge gehalgode · 7 menn guldon him gyld · 7 gislas sealdon · 7 syððan heora land bohtan.

[And William conquered this land and he came to Westminster and Archbishop Ealdred consecrated him king, and men paid him tribute, and delivered him hostages, and afterwards bought their land.]

WILL. MALMESB., *Gesta Regum*, lib. iii. § 279. Convivia in praecipuis festivitatibus sumptuosa et magnifica inibat; Natale Domini apud Gleocestram, Pascha apud Wintoniam, Pentecosten apud Westmonasterium agens quotannis quibus in Anglia morari liceret; omnes eo cujuscunque professionis magnates regium edictum accersiebat, ut exterarum gentium legati speciem multitudinis apparatumque deliciarum mirarentur.... Quem morem convivandi primus successor obstinate tenuit, secundus omisit.

PETERBOROUGH CHRONICLE, 1087 (Rolls ed. i. 355). Eac he wæs swyðe wurðful · þriwa he bær his cynehelm ælce geare · swa oft swa he wæs on Englelande. On Eastron he hine bær on Winceastre · on Pentecosten on Westmynstre · on Midewintre on Gleaweceastre · 7 þænne wæron mid him ealle þa rice men ofer eall Englaland · arcebiscopas · 7 leodbiscopas · abbodas · 7 eorlas · þegnas · 7 cnihtas.

[Also he was very dignified. Thrice he wore his crown every year, as often as he was in England; at Easter he wore it at Winchester; at Whitsuntide at Westminster; at Midwinter at Gloucester; and then were with him all the rich men over all England, archbishops and suffragan bishops, abbots and earls, thegns and knights.]

A. D. 1084. FLOR. WIGORN., ii. 7. Rex Anglorum Willelmus de unaquaque hida per Angliam sex solidos accepit.

A. D. 1086. ROBERT OF HEREFORD (ed. W. H. Stevenson, *E. H. R.*, xxii. 74). Hic est annus xx^mus^ Willelmi, regis Anglorum, quo jubente hoc anno totius Angliae facta est descriptio in agris singularum provinciarum, in possessionibus singulorum procerum, in agris eorum, in mansionibus, in hominibus tam servis quam liberis, tam in tuguria tantum habitantibus, quam in domos et agros possidentibus, in carrucis, in equis et caeteris animalibus, in servitio et censu totius terrae omnium. Alii inquisitores post alios, et ignoti ad ignotas mittebantur provincias, ut alii aliorum descriptionem reprehenderent et regi eos reos constituerent. Et vexata est terra multis cladibus ex congregatione regalis pecuniae procedentibus.

A. D. 1086. FLOR. WIGORN., ii. 19. Nec multo post mandavit ut archiepiscopi, episcopi, abbates, comites, barones, vicecomites, cum suis militibus, die kalendarum Augustarum sibi occurrerent Searesbyriae; quo cum venissent, milites illorum sibi fidelitatem contra omnes homines jurare coegit.

PETERBOROUGH CHRONICLE, 1086 (Rolls ed. i. 353). Syððan he ferde abutan swa þ he com to Lammæssan to Searebyrig · 7 þær him comon to his witan · and ealle þa landsittende men þe ahtes wæron ofer eall Engleland · wæron þæs mannes men þe hi wæron · 7 ealle hi bugon to him · 7 wæron his menn · 7 him hold aðas sworon · þ hi woldon ongean ealle oðre men him holde beon.

[After that he went about so that he came at Lammas to Salisbury, and there came to him his witan, and all the land-owning men of any account that there were over all England, whose soever men they were, and all bowed down to him and became his men, and swore oaths of fealty to him that they would be faithful to him against all other men.]

EADMER, *Hist. Nov.*, i. p. 9. Quaedam de iis quae nova per Angliam servari [Willelmus] constituit ponam . . .

1. Non ergo pati volebat quenquam in omni dominatione sua constitutum Romanae urbis pontificem pro apostolico, nisi se jubente, recipere, aut ejus litteras, si primitus sibi ostensae non fuissent, ullo pacto suscipere.

2. Primatem quoque regni sui, archiepiscopum dico Cantuariensem seu Dorobernensem, si coacto generali episcoporum concilio praesideret, non sinebat quicquam statuere aut prohibere nisi quae suae voluntati accommoda et a se primo essent ordinata.

3. Nulli nihilominus episcoporum suorum concessum iri permittebat, ut aliquem de baronibus suis seu ministris, sive incesto sive adulterio sive aliquo capitali crimine denotatum, publice nisi ejus praecepto implacitaret, aut excommunicaret aut ulla ecclesiastici rigoris poena constringeret.

1072. Writ of Summons to the Feudal Host.

The following charter, for the discovery of which we are indebted to Dr. J. H. Round, is addressed to Æthelwig, Abbot of Evesham, who was administrator of several shires in Western England. To appreciate its importance, as illus-

trating the early history of knight-service, the reader should consult Mr. Round's essay in *Feudal England* (pp. 295–308).

W. Rex Anglorum Athew' abbati de Euesham salutem. Praecipio tibi quod submoneas omnes illos qui sub ballia et justitia sunt quatinus omnes milites quos mihi debent paratos habeant ante me ad octavas Pentecostes apud Clarendunam. Tu etiam illo die ad me venias et illos quinque milites quos de abbatia tua mihi debes tecum paratos adducas. Teste Eudone dapifero. Apud Wintoniam.—(Round, *Feudal England*, p. 304.)

1066–75. Charter of William I to the City of London.

Will'm kyng gret Will'm bisceop and Gosfregð portirefan and ealle þa burhwaru binnan Londone Francisce and Englisce freondlice; and ic kyðe eow þæt ic wylle þæt get beon eallra þæra laga weorðe þe gyt wæran on Eadwerdes dæge kynges. and ic wylle þæt ælc cyld beo his fæder yrfnume æfter his fæder dæge. and ic nelle geþolian þæt ænig man eow ænig wrang beode. God eow gehealde. — (Liebermann, *Gesetze*, i. 486. Facs. of the original in Sharpe, *London and the Kingdom*, i. (1894).)

Translation.

I, William, king, greet William, bishop, and Gosfrith, portreeve, and all the burghers within London, French and English, friendly; and I do you to wit that I will that ye both be worthy of all the laws that ye were worthy of in King Edward's day. And I will that every child be his father's heir, after his father's day. And I will not endure that any man offer any wrong to you. God keep you.

Statutes of William the Conqueror.

The following short record, which is found in this, its earliest, form in the 'Textus Roffensis', a manuscript written under Henry I and Stephen, contains what is probably the sum and substance of all the legal enactments actually made by the Conqueror, independent of his confirmations of the earlier laws; they are probably the alterations or emendations referred to

by Henry I in his charter, as made by his father in the laws of King Edward. The Charter which follows is the important Act by which William divided the ecclesiastical from the secular jurisdiction over the clergy, in matters not strictly spiritual, which had of course always been treated, as they continued to be, by the bishops, in their own courts and councils.

Hic intimatur quid Willelmus Rex Anglorum cum principibus suis constituit post Conquisitionem Angliae.

1. In primis quod super omnia unum vellet Deum per totum regnum suum venerari, unam fidem Christi semper inviolatam custodiri, pacem et securitatem inter Anglos et Normannos servari.

2. Statuimus etiam ut omnis liber homo foedere et sacramento affirmet, quod infra et extra Angliam Willelmo regi fideles esse volunt, terras et honorem illius omni fidelitate cum eo servare, et ante eum contra inimicos defendere.

3. Volo autem ut omnes homines quos mecum adduxi aut post me venerunt sint in pace mea et quiete. Et si quis de illis occisus fuerit, dominus ejus habeat infra quinque dies homicidam ejus si potuerit; sin autem, incipiat persolvere mihi xlvi. marcas argenti quamdiu substantia illius domini perduraverit. Ubi vero substantia defecerit, totus hundredus in quo occisio facta est communiter persolvat quod remanet.

4. Et omnis Francigena qui tempore regis Eadwardi propinqui mei fuit in Anglia particeps consuetudinum Anglorum, quod ipsi dicunt on hlote et an scote, persolvatur secundum legem Anglorum. Hoc decretum sancitum est in civitate Claudia.

5. Interdicimus etiam ut nulla viva pecunia vendatur aut ematur nisi infra civitates, et hoc ante tres fideles testes; nec aliquam rem vetustam sine fidejussore et waranto. Quod si aliter fecerit, solvat et persolvat, et postea forisfacturam.

6. Decretum est etiam ibi, ut, si Francigena appellaverit Anglum de perjurio aut murdro, furto, homicidio, ran, quod Angli dicunt apertam rapinam quae negari non potest, Anglus se defendat per quod melius voluerit, aut judicio ferri aut duello. Si autem Anglus infirmus fuerit, inveniat alium qui pro eo faciat. Si quis eorum victus fuerit, emendet xl. solidos regi. Si Anglus Francigenam appellaverit et probare noluerit

judicio aut duello, volo tamen Francigenam purgare se sacramento non fracto.

7. Hoc quoque praecipio et volo, ut omnes habeant et teneant legem Eadwardi regis in terris et in omnibus rebus, adauctis iis quae constitui ad utilitatem populi Anglorum.

8. Omnis homo qui voluerit se teneri pro libero sit in plegio, ut plegius teneat et habeat illum ad justitiam si quid offenderit. Et si quisquam talium evaserit, videant plegii ut simpliciter solvant quod calumniatum est, et purgent se quia in evaso nullam fraudem noverint. Requiratur hundredus et comitatus, sicut antecessores nostri statuerunt. Et qui juste venire deberent et venire noluerint, semel summoneantur; et si secundo venire noluerint, accipiatur unus bos, et summoneantur tertio. Et si non tertio venerint, accipiatur alius bos: quarta autem vice si non venerint, reddatur de rebus hominis illius qui venire noluerit quod calumniatum est, quod dicitur ceapgeld; et insuper forisfactura regis.

9. Ego prohibeo ut nullus vendat hominem extra patriam super plenam forisfacturam meam.

10. Interdico etiam ne quis occidatur aut suspendatur pro aliqua culpa, sed eruantur oculi, et testiculi abscidantur. Et hoc praeceptum non sit violatum super forisfacturam meam plenam.—(Liebermann, *Gesetze*, i. 486.)

1070–6. Ordinance of William I, separating the Spiritual and Temporal Courts.

Willelmus Dei gratia Rex Anglorum, R. Bainardo et G. de Magnavilla, P. de Valoines, ceterisque meis fidelibus de Essex et de Hertfordschire et de Middelsexe, salutem. Sciatis vos omnes et ceteri mei fideles qui in Anglia manent, quod episcopales leges, quae non bene nec secundum sanctorum canonum praecepta usque ad mea tempora in regno Anglorum fuerunt, communi concilio et consilio archiepiscoporum et episcoporum et abbatum et omnium principum regni mei emendandas judicavi. Propterea mando et regia auctoritate praecipio, ut nullus episcopus vel archidiaconus de legibus episcopalibus amplius in hundret placita teneant, nec causam quae ad regimen animarum pertinet ad judicium secularium hominum adducant, sed quicunque secundum episcopales leges, de quacunque causa vel culpa, interpellatus fuerit, ad locum quem ad hoc episcopus elegerit et nominaverit veniat, ibique de causa

vel culpa sua respondeat, et non secundum hundret, sed secundum canones et episcopales leges rectum Deo et episcopo suo faciat. Si vero aliquis per superbiam elatus ad justitiam episcopalem venire contempserit vel noluerit, vocetur semel et secundo et tertio ; quod si nec sic ad emendationem venerit, excommunicetur, et si opus fuerit ad hoc vindicandum, fortitudo et justitia regis vel vicecomitis adhibeatur. Ille autem qui vocatus ad justitiam episcopi venire noluerit pro unaquaque vocatione legem episcopalem emendabit. Hoc etiam defendo, et mea auctoritate interdico, ne ullus vicecomes aut praepositus seu minister regis, nec aliquis laicus homo, de legibus quae ad episcopum pertinent se intromittat, nec aliquis laicus homo alium hominem sine justitia episcopi ad judicium adducat. Judicium vero in nullo loco portetur, nisi in episcopali sede aut in illo loco quem ad hoc episcopus constituerit.—(Liebermann, *Gesetze*, i. 485.)

A.D. 1086. EXTRACTS FROM DOMESDAY-BOOK AND KINDRED DOCUMENTS

Next to the laws and charters of the early kings, the record of local customs in Domesday-book is the source of the most certain information as to the common law of England before the Conquest. The following extracts are given here as illustrating—1. The aristocratic character of the municipal government in the towns which contained the germs of an organization of their own ; 2. The financial system of the counties previous to its organization under the Court of Exchequer, and whilst still administered by ealdormen or earls, superior to the sheriffs who take their place under the Norman system, although the earl retains ' the third penny ' of the county ; 3. The ' consuetudines ' or financial and legal customary settlement which it was the object of the municipal charters of the next century to conserve or amend ; 4. The method of raising and supporting the customary military force of the *fyrd* or *expeditio* ; 5. The early application of the method of inquest by jury for the ascertaining of these legal and financial ' consuetudines ', exemplified in the heading

of the Ely Survey; 6. The various elements of the rural population, and the tenures to be found in a representative township.

The *Inquest of Ely* is a private compilation, for the use of the monks of Ely, made from the original Domesday returns in part, in part from the second volume of Domesday. The preamble, quoted below, gives the list of questions which were put by the Domesday commissioners, and therefore illustrates the method and purpose of the inquiry. The *Inquisitio Comitatus Cantabrigiensis* gives copies of the original returns for Cambridgeshire, township by township and hundred by hundred. We quote from it a description of the township of Pampsford, to illustrate the disintegration of the Old English village community in the eleventh century. The customs of Chester, Lincoln, Oxford, Oxfordshire, and Berkshire are taken from the official edition of the returns, known as the Exchequer Domesday Book.

Title of the Domesday Inquest for Ely.

Hic subscribitur inquisitio terrarum quomodo barones regis inquirunt, videlicet, per sacramentum vicecomitis scirae et omnium baronum et eorum Francigenarum et totius centuriatus, presbiteri, praepositi, vi. villanorum uniuscujusque villae. Deinde quomodo vocatur mansio, quis tenuit eam tempore Regis Eadwardi; quis modo tenet; quot hidae; quot carrucae in dominio, quot hominum; quot villani; quot cotarii; quot servi; quot liberi homines; quot sochemani; quantum silvae; quantum prati; quantum pascuorum; quot molendina; quot piscinae; quantum est additum vel ablatum; quantum valebat totum simul; et quantum modo; quantum ibi quisque liber homo, vel sochemannus habuit vel habet. Hoc totum tripliciter; scilicet tempore Regis Aeduardi, et quando Rex Willelmus dedit; et quomodo sit modo; et si potest plus haberi quam habeatur.—(*Inquisitio Comitatus Cantabrigiensis* (ed. Hamilton), p. 97.)

Description of the Township of Pampsford, co. Cambridge.

Pampeswrda pro v hidis et xxii acris se defendit tempore Regis Ædwardi et modo. De his v hidis et xxii acris tenet Abbas de Ely duas hidas et tres virgas et dimidiam. Sex carrucis est ibi terra. Una hida et una virga et dimidia et duae carrucae in dominio. Quatuor carrucae villanis; duodecim villani, quinque bordarii, tres servi; unum molendinum de viginti solidis; pratum unius carrucae. Tredecim animalia otiosa; quater viginti et quindecim oves, viginti tres porci. Inter totum valet et valuit septem libras. Haec terra jacet et jacuit in ecclesia Sanctae Etheldredae de Eli.

Et de his v hidis et xxii acris tenet Radulfus de Scamnis et Radulfus Brito unam hidam et viginti duas acras de Comite Alano. Duabus carrucis et duobus bobus est ibi terra. Una carruca in dominio et altera carruca villanis. Duo villani, duo bordarii; duae acrae et dimidia prati. Quatuor animalia otiosa; septem et viginti et decem oves; triginta novem porci. Inter totum valet triginta solidos; et quando recepit decem solidos et tempore Regis Edwardi triginta solidos. Hanc terram tenuit Almarus homo Eddivae. Potuit dare et vendere cui voluit tempore Edwardi regis. Sed socham habuit Eddiva.

Et de his v hidis et xxii acris tenet Radulfus de Scannis de Picoto vicecomite de feudo regis tres virgas. Unius carrucae est ibi terra, et est carruca: duae acrae prati et dimidia. Haec terra valet decem solidos et valuit. Hanc terram tenuit Edricus homo Alurici Child. Potuit dare terram suam cui voluit T.R.E.

Et de his v hidis et xxii acris tenet Hardewinus de abbate decem acras. Uni bovi est terra: duodecim denarios valet et valuit. Hanc terram tenet Suellingus, et tenuit T.R.E.; nec potuit recedere. Et in ipsa villa tenet Picotus quinque acras de Eudone Dapifero; sex denarios valet et valuit. Hanc terram tenuit Burro de Alurico Camp; potuit recedere cum voluit. In eadem villa tenet Hardewinus dimidiam virgam de feudo regis; duobus bobus est terra. Haec terra valet et valuit quatuor oras. Duo sochemanni tenuerunt hanc terram, homines regis Edwardi, et invenerunt inwardos; potuerunt recedere. Et in eadem villa tenet quidam presbyter dimidiam virgatam de Judeta comitissa; duobus bobus est terra. Hanc

terram tenuit unus sochemannus, homo comitis Gurdi; non potuit recedere.—(*Inq. Comitatus Cantabrigiensis* (ed. Hamilton), pp. 37–8.)

Customs of Chester.

Civitas de Cestre tempore Regis Edwardi geldabat pro l. hidis. Tres hidae et dimidia quae sunt extra civitatem, hoc est, una hida et dimidia ultra pontem, et ii. hidae in Neutone et Redeclive et in burgo episcopi, hae geldabant cum civitate.

Tempore Regis Edwardi erant in ipsa civitate cccc. et xxxi. domus geldantes. Et praeter has habebat episcopus lvi. domus geldantes. Tunc reddebat haec civitas x. markas argenti et dimidiam. Duae partes erant regis et tertia comitis; et hae leges erant ibi:—

Pax data manu regis vel suo brevi vel per suum legatum, si ab aliquo fuisset infracta, inde rex c. solidos habebat. Quod si ipsa pax regis jussu ejus a comite data fuisset infracta, de centum solidis qui pro hoc dabantur tertium denarium comes habebat. Si vero a praeposito regis aut ministro comitis eadem pax data infringeretur, per xl. solidos emendabatur, et comitis erat tertius denarius.

Si quis liber homo regis pacem datam infringens in domo hominem occidisset, terra ejus et pecunia tota regis erat, et ipse utlagh fiebat. Hoc idem habebat comes de suo tantum homine hanc forisfacturam faciente. Cuilibet autem utlagh nullus poterat reddere pacem nisi per regem.

Qui sanguinem faciebat a mane secundae feriae usque ad nonam sabbati, x. solidis emendabat. A nona vero sabbati usque ad mane secundae feriae sanguis effusus xx. solidis emendabatur. Similiter xx. solidos solvebat qui hoc faciebat in xii. diebus Nativitatis, et in die Purificationis Sanctae Mariae, et primo die Paschae, et primo die Pentecostes, et die Ascensionis, et in Assumptione vel Nativitate Sanctae Mariae, et in die festo Omnium Sanctorum.

Qui in istis sanctis diebus hominem interficiebat iiii. libris emendabat; in aliis autem diebus xl. solidis. Similiter heinfaram vel forestel in his festis diebus et die Dominico qui faciebat, iiii. libras exsolvebat. In aliis diebus xl. solidos.

Hangewitham faciens in civitate x. solidos dabat. Praepositus autem regis vel comitis hanc forisfacturam faciens xx. solidis emendabat.

Qui revelach faciebat vel latrocinium vel violentiam feminae in domo inferebat, unumquodque horum xl. solidis emendabatur.

Vidua si alicui se non legitime commiscebat xx. solidis emendabat; puella vero x. solidis pro simili causa.

Qui in civitate terram alterius saisibat et non poterat diratiocinare suam esse, xl. solidis emendabat. Similiter et ille qui clamorem inde faciebat, si suam esse debere non posset diratiocinare.

Qui terram suam vel propinqui sui relevare volebat x. solidos dabat.

Quod si non poterat vel nolebat, terram ejus in manu regis praepositus accipiebat.

Qui ad terminum quod debebat gablum non reddebat, x. solidis emendabat.

Si ignis civitatem comburebat, de cujus domo exibat emendabat per iii. oras denariorum, et suo propinquiori vicino dabat ii. solidos. Omnium harum forisfacturarum ii. partes erant regis et tertia comitis.

Si sine licentia regis ad portum civitatis naves venirent vel a portu recederent, de unoquoque homine qui navibus esset, xl. solidos habebat rex et comes. Si contra pacem regis et super ejus prohibitionem navis adveniret, tam ipsam quam homines cum omnibus qui ibi erant habebat rex et comes.

Si vero cum pace et licentia regis venisset, qui in ea erant quiete vendebant quae habebant: sed cum discederet, iiii. denarios de unoquoque lesth habebat rex et comes. Si habentibus martrinas pelles juberet praepositus regis ut nulli venderent donec sibi prius ostensas compararet, qui hoc non observabat xl. solidis emendabat.

Vir sive mulier falsam mensuram in civitate faciens, deprehensus, iiii. solidis emendabat. Similiter malam cervisiam faciens, aut in cathedra ponebatur stercoris, aut iiii. solidos dabat praepositis. Hanc forisfacturam accipiebat minister regis et comitis in civitate, in cujuscunque terra fuisset, sive episcopi sive alterius hominis. Similiter et theloneum, si quis illud detinebat ultra tres noctes, xl. solidis emendabat.

Tempore regis Edwardi erant in civitate hac vii. monetarii, qui dabant vii. libras regi et comiti extra firmam quando moneta vertebatur.

19. Tunc erant xii. judices civitatis, et hi erant de hominibus regis et episcopi et comitis: horum si quis de hundret remane-

bat die quo sedebat, sine excusatione manifesta, x. solidis emendabat inter regem et comitem.

Ad murum civitatis et pontem reaedificandum de unaquaque hida comitatus unum hominem venire praepositus edicebat. Cujus homo non veniebat, dominus ejus xl. solidis emendabat regi et comiti. Haec forisfactura extra firmam erat.

Haec civitas tunc reddebat de firma xlv. libras et iii. timbres pellium martrinium. Tertia pars erat comitis et duae regis.

Quando Hugo comes recepit non valebat nisi xxx. libris: valde enim erat vastata: ducentae et v. domus minus ibi erant quam tempore regis Edwardi fuerant. Modo totidem sunt ibi quot invenit.

Hanc civitatem Mundret tenuit de comite pro lxx. libris et una marka auri. Ipse habuit ad firmam pro l. libris et i. marka auri, omnia placita comitis in comitatu et hundretis praeter Inglefeld.

Terra in qua est templum Sancti Petri, quam Robertus de Rodelend clamabat ad teinland, sicut diratiocinavit comitatus, nunquam pertinuit ad manerium extra civitatem sed ad burgum pertinet; et semper fuit in consuetudine regis et comitis sicut aliorum burgensium.—(*Domesday*, i. 262, b.)

Customs of Lincoln.

In civitate Lincolia erant tempore regis Edwardi novies centum et lxx. mansiones hospitatae. Hic numerus Anglice computatur i. centum pro cxx. In ipsa civitate erant xii. lageman, id est habentes sacam et socam; Hardecnut, Suartin filius Grimboldi, Ulf filius Suertebrand, qui habuit thol et theim, Walraven, Alwold; Britric, Guret, Ulbert, Godric filius Eddevae, Siward presbyter, Lewine presbyter, Aldene presbyter. Modo sunt ibi totidem habentes similiter sacam et socam: (1) Suardinc loco Hardecnut patris sui; (2) Suartinc; (3) Sortebrand loco Ulf patris sui; (4) Agemund loco Walraven patris sui; (5) Alwold; (6) Goduinus filius Brictric; (7) Normannus crassus loco Guret; (8) Ulbert frater Ulf adhuc vivit; (9) Petrus de Valonges loco Godric filii Eddevae; (10) Ulnodus presbyter loco Siward presbyteri; (11) Buruolt loco patris sui Lewine qui modo est monachus; (12) Ledwinus filius Revene loco Aldene presbyteri. . . .

Tempore regis Edwardi reddebat civitas Lincolia regi xx. libras, et comiti x. libras. Modo reddit c. libras ad numerum inter regem et comitem. Moneta vero reddit lxxv. libras.

Consuetudines regis et comitis in Sudlincolia reddunt xxviii. libras.

In Norttreding consuetudines regis et comitis reddunt xxiv. libras.

In Westreding consuetudines regis et comitis reddunt xii. libras.

In Sudtreding consuetudines regis et comitis reddunt xv. libras.

Pax manu regis vel sigillo ejus data, si fuerit infracta emendatur per xviii. hundrez. Unumquodque hundredum solvit viii. libras. Duodecim hundreda emendant regi et vi. comiti.

Si quis pro aliquo reatu exulatus fuerit a rege et a comite et ab hominibus vicecomitatus, nullus nisi rex sibi dare pacem poterit.—(*Domesday*, i. 336.)

Customs of Oxford and Oxfordshire.

Oxenefordscire.—Tempore regis Edwardi reddebat Oxeneford pro theloneo et gablo et omnibus aliis consuetudinibus per annum regi quidem xx. libras et vi. sextarios mellis; comiti vero Algaro x. libras, adjuncto molino quem infra civitatem habebat. Quando rex ibat in expeditionem, burgenses xx. ibant cum eo pro omnibus aliis, vel xx. libras dabant regi ut omnes essent liberi. Modo reddit Oxeneford lx. libras ad numerum de xx^ti^ in ora. In ipsa villa tam intra murum quam extra sunt cc. et xliii. domus reddentes geldum, et exceptis his sunt ibi quingentae domus xxii. minus ita vastae et destructae quod geldum non possunt reddere.

(*After the names of the tenants.*)

Hi omnes praescripti tenent has praedictas mansiones liberas propter reparationem muri. Omnes mansiones quae vocantur murales tempore regis Edwardi liberae erant ab omni consuetudine excepta expeditione et muri reparatione. . . .

Omnes burgenses Oxeneford habent communiter extra murum pasturam reddentem vi. solidos et viii. denarios. . . .

Comitatus Oxeneford reddit firmam trium noctium hoc est cl. libras: de augmento xxv. libras ad pondus: de burgo xx. libras ad pondus: de moneta xx. libras denariorum de xx^ti^ in ora: ad arma iiii. solidos: de gersumna reginae c. solidos ad numerum: pro accipitre, x. libras: pro summario, xx. solidos: pro canibus, xxiii. libras denariorum de xx^ti^ in ora, et vi. sextarios mellis et xv. denarios de consuetudine. . . .

Pax regis manu vel sigillo data si quis infregerit ita ut hominem cui pax ipsa data fuerit occidat, et membra et vita ejus in arbitrio regis erunt si captus fuerit. Et, si capi non potuerit, ab omnibus exul habebitur, et si quis eum occidere praevaluerit spolia ejus licenter habebit.

Si quis extraneus in Oxeneford manere deligens et domum habens sine parentibus ibi vitam finierit, rex habebit quicquid reliquerit.

Si quis alicujus curiam vel domum violenter effregerit vel intraverit, ut hominem occidat, vel vulneret, vel assaliat, c. solidis regi emendat.

Similiter qui monitus ire in expeditionem non vadit, c. solidos regi dabit.

Si quis aliquem interfecerit intra curiam vel domum suam, corpus ejus et omnis substantia sunt in potestate regis praeter dotem uxoris ejus si dotatam habuerit.—(*Domesday*, i. 154.)

Customs of Berkshire.

Quando geldum dabatur tempore regis Edwardi communiter per totam Bercheschiram dabat hida iii. denarios et obolum ante Natale Domini et tantundem ad Pentecosten.

Si rex mittebat alicubi exercitum, de quinque hidis tantum unus miles ibat et ad ejus victum vel stipendium de unaquaque hida dabantur ei iiii. solidi ad duos menses. Hos vero denarios regi non mittebantur sed militibus dabantur. Si quis in expeditionem summonitus non ibat, totam terram suam erga regem forisfaciebat. Quod si quis remanendi habens alium pro se mittere promitteret, et tamen qui mittendus erat remaneret, pro l. solidis quietus erat dominus ejus.

Tainus vel miles regis dominicus moriens pro relevamento dimittebat regi omnia arma sua et equum unum cum sella, alium sine sella. Quod si essent ei canes vel accipitres praesentabantur regi, ut, si vellet, acciperet.

Si quis occideret hominem pacem regis habentem, et corpus suum et omnem substantiam forisfaciebat erga regem.

Qui per noctem effringebat civitatem c. solidis emendabat regi non vicecomiti.

Qui monitus ad stabilitionem venationis non ibat, l. solidis regi emendabat.—(*Domesday*, i. 56.)

A.D. 1087–1100. WILLIAM II

ARCHBISHOPS OF CANTERBURY: Lanfranc, 1070-1089; Anselm, 1093–1109. JUSTICES: Odo of Bayeux, 1087–1088; William de S. Carilepho, 1088; Ranulf Flambard, 1094–1100. CHANCELLORS: Robert Bloet, bef. 1094; William Giffard, 1094–1100.

The reign of William Rufus contains no great constitutional landmark, but it witnessed the ripening of the causes which were producing the death-struggle of the royal and feudal powers, and affords a few slight indications of the continuity of the national institutions, which were enabled by that contest to take breath between the successive strokes of their tyrants, or were even occasionally utilized by the king, as possessing interests for the moment in unison with his own. On three occasions William found it necessary or advisable to issue constitutional manifestoes or promises, but the text of none of these is extant; and none of them was observed. The rest of the history of the reign is a picture of profligate exaction and extravagant expenditure, lying outside the sphere of constitutional history.[1]

A.D. 1087. EADMER, *Hist. Novorum*, lib. i. p. 25. Defuncto itaque Rege Willelmo, successit ei in regnum Willelmus filius ejus, qui cum regni fastigia fratri suo Roberto praeripere gestiret, et Lanfrancum, sine cujus assensu in regnum ascisci nullatenus poterat, sibi in hoc ad expletionem desiderii sui non omnino consentaneum inveniret; verens ne dilatio suae consecrationis inferret ei dispendium cupiti honoris, coepit tam per se, quam per omnes quos poterat, fide sacramentoque Lanfranco promittere, justitiam, misericordiam et aequitatem se per totum regnum, si rex foret, in omni negotio servaturum; pacem, libertatem, securitatem ecclesiarum contra omnes

[1] Freeman argues (*William Rufus*, i. pp. 334 ff.) that the incidents of feudal tenure were first reduced to a system in this reign, by the king's chief minister, Ranulf Flambard, whom he calls 'the lawgiver of feudalism'. This view is challenged by J. H. Round in his essay on Knight-Service (*Feudal England*, pp. 225 ff.), and Professor Haskins has proved in his article on Knight Service in Normandy (*Eng. Hist. Review*, xxii. p. 646) that the main features of feudal tenure existed in the duchy before 1087. Rufus, however, appears to have revived the doctrine that a fief was a life-estate, to be redeemed by the heir for an arbitrary relief.

defensurum, necnon praeceptis atque consiliis ejus per omnia et in omnibus obtemperaturum.

A.D. 1088. WILL. MALMESB., *Gesta Regum*, lib. iv. § 306. [Rex] videns Normannos pene omnes in una rabie conspiratos, Anglos probos et fortes viros, qui adhuc residui erant, invitatoriis scriptis accersiit; quibus super injuriis suis querimoniam faciens, bonasque leges, et tributorum levamen, liberasque venationes pollicens, fidelitati suae obligavit. . . . Anglos suos appellat, jubet ut compatriotas advocent ad obsidionem (Rovecestrae) venire, nisi si qui velint sub nomine Nithing, quod nequam sonat, remanere. Angli qui nihil miserius putarent quam hujusce vocabuli dedecore aduri, catervatim ad regem confluunt et invincibilem exercitum faciunt.

A.D. 1093. EADMER, *Hist. Nov.* i. p. 30. . . . Valida infirmitas corripuit [regem]. . . . Adquiescit ipse [rex] et corde compunctus, cuncta quae viri [Anselmi] sententia tulit se facturum, necnon totam vitam suam in mansuetudine et justitia amplius servaturum pollicetur. Spondet in hoc fidem suam, et vades inter se et Deum facit episcopos suos, mittens qui hoc votum suum Deo super altare sua vice promittant. Scribitur edictum regioque sigillo firmatur, quatinus captivi quicunque sunt in omni dominatione sua relaxentur, omnia debita irrevocabiliter remittantur, omnes offensiones antehaec perpetratae, indulta remissione perpetuae oblivioni tradantur. Promittuntur insuper omni populo bonae et sanctae leges, inviolabilis observatio juris, injuriarum gravis et quae terreat ceteros examinatio. . . .

A.D. 1094. FLOR. WIGORN., ii. p. 35. Quod cum regi innotuerit (*sc.* obsessio castelli de Holm), nuntiis in Angliam missis, xx millia pedonum in Normanniam jussit sibi in auxilium mitti. Quibus ut mare transirent Heastingae congregatis, pecuniam quae data fuerat eis ad victum, Rannulfus Passeflambardus praecepto regis abstulit, scilicet unicuique decem solidos, et eos domum repedare mandavit; pecuniam vero regi transmisit.

ROYAL WRIT of 1095 (Heming's *Chartulary*, i. 79). W. rex Anglorum omnibus Francis et Anglis qui francas terras tenent de episcopatu de Wireceastra salutem. Sciatis quia, mortuo episcopo, honor in manum meam rediit. Nunc volo ut de terris vestris tale relevamen mihi detis, sicut per barones meos disposui. . . . Et qui hoc facere noluerit, Urso et Bernardus saisiant et terras et pecunias in manu mea.

A.D. 1100–1135. HENRY I

ARCHBISHOPS OF CANTERBURY: Anselm, 1093–1109; Ralph of Escures, 1114–1122; William of Corbeil, 1123–1135. JUSTICES: Robert Bloet, 1100–1107; Roger le Poor, Bishop of Salisbury, 1107–1135. CHANCELLORS: William Giffard, 1100–1101; Roger le Poor, 1101–1103; Waldric, 1103–1106; Ranulf, 1107–1123; Geoffrey Rufus, 1124–1135.

Although the reign of Henry I was a period of irresponsible despotism on the king's part, and of great suffering, from several causes, on the part of the English, it is to it that we trace back the exact lines of the process by which the reviving liberties of the nation were to assert themselves. This is due, first, to the fact of the necessary alliance between the king and the people, which resulted from his questionable title to the throne, the competition of his brother Robert, the existence of the powerful baronage under Robert of Belesme, which was anxious to take advantage of the weakness of the king to secure its own practical independence, and the unity of the interest of the king and people against their common enemy. This alliance was ostensibly secured by the careful legality of Henry's election and coronation, by his charter of liberties, and by his marriage with an English lady who inherited a share of the claims of the West Saxon Kings; and the practical results appeared in the steady support given by the native population to Henry against his competitors and assailants, and in the promises of good government by which that support was requited.

But not less important, constitutionally, is the result of Henry's complete triumph; which not only made him one of the most influential princes in Europe, but placed in his hands, by the forfeiture and degradation of his most powerful vassals, an amount of territory and completeness of jurisdiction in England greater than had fallen to the lot of his father. Thus strengthened,—and this is especially apparent after the fall

of Robert of Belesme,—Henry followed out his father's principles of avoiding the redistribution of territory and jurisdiction on a large scale, and attempted, by centralization and systematic machinery, to unite the kingdom under a strong royal administration. Whilst, with this intention, he on the one hand, organized the financial system of the Exchequer and facilitated access to the Curia Regis, on the other he restored or strengthened the county courts, granted charters of the boroughs, and authorized the foundation of trade guilds in the towns. By judicial circuits of the Justiciar and Barons of the Exchequer he brought the supreme jurisdiction into contact with the provincial organization, and reduced the hereditary franchises of the nobles to comparative harmlessness. In these measures he led the way for the great reforms of his grandson. But we are not to suppose that under Henry I the security of life and property which resulted from these measures was based on anything more permanent than royal will or routine. Henry I was not a lawgiver, nor did he entrust the national council with any freedom of legislative action. His relation with the barons, the clergy, and the people rendered this impossible. His charter of liberties, then, remains the sole legislative act of his reign, for the Custumal known as 'The Laws of Henry I' is a compilation by a private hand. But there are considerable evidences of judicial and administrative activity in the numerous charters of the reign, and in the valuable record of Exchequer proceedings known as the Pipe Roll of the 31st of Henry I.

A third influential characteristic of the period was the stand, mainly successful, made by S. Anselm on behalf of ecclesiastical liberties, which, although it had no immediate bearing on the framework of the constitution, secured the existence of a limit on royal irresponsibility in one direction at least, taught the nation the possibility of vindicating freedom, and created a class of politicians springing from the people, trusted by the sovereign, and sincerely interested in the maintenance of law

and peace. How largely this was the case appears from the fact that it is from the clergy only that any real check upon the royal power proceeds for more than a century. They only resist arbitrary taxation; and, whether struggling for the national good, or, as in some instances, for their class privileges, maintain the recollection and idea of freedom.

Notwithstanding the existence of these influences, which were now only germinating, the condition of England under Henry I was very unhappy. Although he kept good peace, and by his strong administrative system secured justice between man and man, class and class, his foreign wars and domestic expenses necessitated frequent taxation, against which no class of his subjects could even remonstrate, and the pressure of which, owing to a singularly long succession of bad seasons, was especially heavy on the country. It is no small praise to Henry, as a ruler, that while the Chronicles are full of lamentations over the miseries of the reign, he is recognized as the Lion of Justice or Righteousness of Merlin's prophecy, and looked upon more or less as a national or English king, whose laws, or rather customs, like those of Edward the Confessor, become the text of the liberties which, when the nation has become strong and thoroughly consolidated, are to be vindicated against his successors.

Excerpts.

A. D. 1100. WILL MALMESB., *Gesta Regum*, v. § 393. Occiso vero rege Willelmo, . . . (Henricus) in regem electus est, aliquantis tamen ante controversiis inter proceres agitatis atque sopitis; annitente maxime comite Warwicensi Henrico, viro integro et sancto, cujus familiari jamdudum usus fuerat contubernio. Itaque edicto statim per Angliam misso, injustitias a fratre et Rannulfo institutas prohibuit, pensionum et vinculorum gratiam fecit; effeminatos curia propellens, lucernarum usum noctibus in curia restituit qui fuerat tempore fratris intermissus; antiquarum moderationem legum revocavit in

solidum, sacramento suo et omnium procerum, ne luderentur corroborans.

EADMER, *Hist. Nov.* iii. p. 119. Henricus qui tunc noviter fratri defuncto in regnum successerat, in ipso suae consecrationis die bonas et sanctas omni populo leges se servaturum et omnes oppressiones et iniquitates, quae sub fratre suo emerserant in omni sua dominatione, tam in ecclesiasticis quam in saecularibus negotiis, prohibiturum et subversurum spoponderat; et haec omnia jurisjurandi interjectione firmata, sub monimento litterarum sigilli sui testimonio roboratarum, per totum regnum divulgatum iri praeceperat.

A. D. 1101. WILL. MALMESB., *Gesta Regum*, § 395. Licet principibus deficientibus partes ejus solidae manebant, quas Anselmi archiepiscopi, cum episcopis suis, simul et omnium Anglorum tutabatur favor. Quapropter ipse provincialium fidei gratus et saluti providus, plerumque cuneos circuiens docebat quomodo militum ferociam eludentes, clypeos objectarent et ictus remitterent, quo effecit ut ultroneis votis pugnam deposcerent in nullo Normannos metuentes.

A. D. 1104. FLOR. WIG. ii. 53. Willelmus comes de Moreteon exhaeredatus est de tota terra sua quam habuit in Anglia. Non facile potest narrari miseria quam sustinuit isto tempore terra Anglorum propter exactiones regias.

A. D. 1107. FLOR. WIG. ii. 56. Annuit rex et statuit, ut ab eo tempore in reliquum, nunquam per dationem baculi pastoralis vel annuli quisquam de episcopatu aut abbatia per regem vel quamlibet laicam manum in Anglia investiretur; concedente quoque Anselmo ut nullus in praelationem electus, pro hominio quod regi faceret, consecratione suscepti honoris privaretur.

A. D. 1108. FLOR. WIG. ii. 57. Rex Anglorum Henricus pacem firmam legemque talem constituit, ut si quis in furto vel latrocinio deprehensus fuisset suspenderetur. Monetam quoque corruptam et falsam sub tanta animadversione corrigi statuit, ut nullus qui posset deprehendi falsos denarios facere, aliqua redemptione quin oculos et inferiores corporis partes perderet juvari valeret. Et quoniam saepissime dum denarii eligebantur, flectebantur, rumpebantur, respuebantur, statuit ut nullus denarius vel obolus, quos et rotundos esse instituit, aut etiam quadrans, [si] integer esset, [respueretur]. Ex quo

facto magnum bonum toti regno creatum est, quia ipse rex haec in saecularibus ad relevandas terrae aerumnas agebat.

WILL. MALMESB., *Gesta Regum*, v. 408. Habebat .... Rex Henricus episcopum Salesbiriensem Rogerium a secretis, cujus maxime nitebatur consilio, nam et ante regnum omnibus suis praefecerat rex; primum cancellarium, mox episcopum constituerat, prudentiam viri expertus. Sollerter administrati episcopatus officium spem infudit, quod majori dignus haberetur munere, itaque totius regni moderamen illius delegavit justitiae, sive ipse adesset Angliae sive moraretur Normanniae. Refugit episcopus tantis se curis involvere nisi tres Archiepiscopi Cantuarienses, Anselmus, Radulfus, Willelmus, et postremo papa injunxissent ei munus obedientiae.

ORD. VIT., *Eccl. Hist.* lib. xi. c. 2.... Plerosque illustres pro temeritate sua de sublimi potestatis culmine praecipitavit, et haereditario jure irrecuperabiliter spoliatos condemnavit. Alios e contra favorabiliter illi obsequentes de ignobili stirpe illustravit, de pulvere, ut ita dicam, extulit, dataque multiplici facultate super consules et illustres oppidanos exaltavit. Inde Goisfredus de Clintona, Radulfus Basset, et Hugo de Bocalanda, Guillegrip, et Rainerius de Bada, Guillelmus Trossebot, et Haimon de Falesia, Guigan Algazo, et Rodbertus de Bostare, aliique plures, mihi testes sunt, opibus aggregatis et aedibus constructis, super omnia quae patres eorum habuerunt; ipsi quoque, qui ab eisdem saepe falsis vel injustis occasionibus oppressi sunt. Illos nimirum aliosque plures quos singillatim nominare taedio est, rex, cum de infimo genere essent, nobilitavit, regali auctoritate de imo erexit, in fastigio potestatum constituit, ipsis etiam spectabilibus regni principibus formidabiles effecit. . . .

Lib. xi. c. 3. Rex itaque totum honorem Rodberti (de Belismo) et hominum ejus, qui cum illo in rebellione perstiterant, possedit, ipsumque cum equis et armis incolumem abire permisit, salvumque per Angliam usque ad mare conductum porrexit. Omnis Anglia, exulante crudeli tyranno, exultavit, multorumque congratulatio regi Henrico tunc adulando dixit, 'Gaude rex Henrice, Dominoque Deo gratias age, quia tu libere coepisti regnare, ex quo Rodbertum de Belismo vicisti, et de finibus regni tui expulisti.' Fugato itaque Rodberto regnum Albionis in pace siluit et rex Henricus xxxiii. annis prospere regnavit, quibus in Anglia nullus postea rebellare

contra eum ausus fuit, nec munitionem aliquam contra eum tenuit.

A.D. 1110. HENR. HUNTINGD., *Hist.* p. 237. Anno igitur sequenti data est filia regis imperatori, ut breviter dicam, sicut decuit ; Rex itaque cepit de unaquaque hida Angliae tres solidos.

A.D. 1124. PETERBOROUGH CHRONICLE. Ðes ilces geares, æfter S. Andreas messe, toforen Cristes messe, held Raulf Basset 7 þes kinges ðæines gewitenemot on Leðecæstrescire at Hundehoge, 7 ahengen þær swa fela þefas swa næfre ær ne wæron. þet wæron on þa litle hwile ealles feower 7 feowerti manne, 7 six men spilde of here ægon. . . . Fela soðfeste men sæidon þ þær wæron manege mid micel unrihte gespilðe. . . . Ful heui gear wæs hit. Se man þe æni god heafde, him me hit beræfode mid strange geoldes 7 mid strange motes, þe nan ne heafde stearf of hungor.

[In the same year, after S. Andrew's mass, before Christmas, Ralph Basset and the king's thegns held a 'gewitenemot' at Hundehoge in Leicestershire, and there hanged so many thieves as never were before, that was in that little while, altogether four-and-forty men ; and six men were deprived of their eyes. . . . Many truthful men said there were many unjustly mutilated. . . . A full heavy year it was. The man who had any goods was deprived of them by harsh gelds and harsh law-courts ; those who had none died of hunger.]

A.D. 1135. PETERBOROUGH CHRONICLE. The king died on the following day after S. Andrew's mass day, in Normandy : then there was treason soon in the land, for every man that could forthwith robbed another. Then his son and his friends took his body and brought it to England and buried it at Reading. A good man he was, and there was great awe of him. No man durst misdo against another in his time. He made peace for man and beast. Whoso bare his burden of gold and silver, no man durst say to him aught but good. . . .

A. D. 1100. Aug. 5. Charter of Liberties issued by Henry I.

This charter was published by Henry I at his coronation, and probably reissued from time to time as he found it necessary to appeal to the sympathies of his people against their common enemies. It is in form an amplification of his Coronation Oath, the exact words of which are still preserved, and agree with the ancient form used at the coronation of Ethelred:

'In Christi nomine promitto haec tria populo Christiano mihi subdito. In primis me praecepturum et opem pro viribus impensurum ut ecclesia Dei et omnis populus Christianus veram pacem nostro arbitrio in omni tempore servet; aliud ut rapacitates et omnes iniquitates omnibus gradibus interdicam; tertium ut in omnibus judiciis aequitatem et misericordiam praecipiam, ut mihi et vobis indulgeat Suam misericordiam clemens et misericors Deus.' [1]

It is thus a deliberate expression of the articles of the covenant made by the king with his people, in consideration of which he receives the threefold sanction of election by the nation, unction and coronation by the Church, and homage from the feudal vassals. Further, it is a deliberate limitation of the power which had been exercised by William the Conqueror and William Rufus, a renunciation of the evil customs introduced by the latter, and a restoration of the ancient customs of the nation; and in this aspect, it is a recognition of the lawful freedom of the nation, which those evil customs had infringed, and which was regarded as symbolized by the laws of Edward the Confessor. Further, it is an exemplification of the evil customs themselves; and historically marks the amount of departure from free and national government which had prevailed in the late reign. These are the oppressions of the Church by the exaction of the regale in the case of vacancies,

[1] Maskell, *Mon. Rit.* iii. 5, 6.

and the consequent delay of elections; and those of the feudal baronage and their tenants, by the excessive exactions in the way of reliefs, marriages, and wardships, debts to the crown and forfeiture. In the place of unlimited demands on these heads the charter promises not indeed fixed amercements, but a return to ancient equitable custom. The forests are retained in the king's hands. But the claims of the body of the people are recognized in the proclamation of peace, in the restoration of the national laws, and in the provision that the promises made by the crown to its vassals shall be regarded as regulating the proceedings of those vassals with their feudal dependants: a most important article, securing the rights of the lower landowners, on the same basis as those of the higher, and binding the latter to do justice as they would have justice done to them. In every point, either by likeness or by contrast, this charter has important bearings on the constitutional programme drawn out of it by the barons in their demands on John.

[See the texts and critical apparatus in Bémont, *Chartes des Libertés anglaises* (1892), pp. 3–6; and in Liebermann, *Gesetze*, i. 521. Copies were dispatched to each shire: Roger of Wendover s. a. 1100 gives the copy addressed to Hertfordshire. Our text reproduces the preamble of the Worcestershire copy (*Red Book of the Exchequer*, fo. 163 *v.*).]

Henricus rex Anglorum Samsoni episcopo et Ursoni de Abetot et omnibus baronibus et fidelibus suis tam Francigenis quam Angligenis de Wirecestrescira salutem.

1. Sciatis me Dei misericordia et communi consilio baronum totius regni Angliae ejusdem regni regem coronatum esse; et quia regnum oppressum erat injustis exactionibus, ego, Dei respectu et amore quem erga vos omnes habeo, sanctam Dei ecclesiam imprimis liberam facio, ita quod nec vendam nec ad firmam ponam, nec mortuo archiepiscopo sive episcopo sive abbate aliquid accipiam de dominio ecclesiae vel de hominibus ejus donec successor in eam ingrediatur. Et omnes malas

consuetudines quibus regnum Angliae injuste opprimebatur inde aufero ; quas malas consuetudines ex parte hic pono :

2. Si quis baronum, comitum meorum sive aliorum qui de me tenent, mortuus fuerit, haeres suus non redimet terram suam sicut faciebat tempore fratris mei, sed justa et legitima relevatione relevabit eam. Similiter et homines baronum meorum justa et legitima relevatione relevabunt terras suas de dominis suis.

3. Et si quis baronum vel aliorum hominum meorum filiam suam nuptum tradere voluerit sive sororem sive neptem sive cognatam, mecum inde loquatur ; sed neque ego aliquid de suo pro hac licentia accipiam neque defendam ei quin eam det, excepto si eam vellet jungere inimico meo. Et si mortuo barone vel alio homine meo filia haeres remanserit, illam dabo consilio baronum meorum cum terra sua. Et si mortuo marito uxor ejus remanserit et sine liberis fuerit, dotem suam et maritationem habebit, et eam non dabo marito nisi secundum velle suum.

4. Si vero uxor cum liberis remanserit, dotem quidem et maritationem suam habebit, dum corpus suum legitime servaverit, et eam non dabo nisi secundum velle suum. Et terrae et liberorum custos erit sive uxor sive alius propinquorum qui justius esse debebit. Et praecipio ut barones mei similiter se contineant erga filios et filias vel uxores hominum suorum.

5. Monetagium commune, quod capiebatur per civitates et comitatus, quod non fuit tempore regis Eadwardi, hoc ne amodo sit [1] omnino defendo. Si quis captus fuerit sive monetarius sive alius cum falsa moneta, justitia recta inde fiat.

6. Omnia placita et omnia debita quae fratri meo debebantur condono, exceptis rectis firmis meis et exceptis illis quae pacta erant pro aliorum haereditatibus vel pro eis rebus quae justius aliis contingebant. Et si quis pro haereditate sua aliquid pepigerat, illud condono, et omnes relevationes quae pro rectis haereditatibus pactae fuerant.

7. Et si quis baronum, vel hominum meorum infirmabitur, sicut ipse dabit, vel dare disponet pecuniam suam, ita datam esse concedo. Quod si ipse, praeventus vel armis vel infirmitate, pecuniam suam non dederit, vel dare disposuerit, uxor sua, sive liberi, aut parentes, aut legitimi homines ejus, eam pro anima ejus dividant, sicut eis melius visum fuerit.

[1] *fiat* in the *Red Book of the Exchequer*, fo. 163.

8. Si quis baronum sive hominum meorum forisfecerit, non dabit vadium in misericordia pecuniae suae, sicut faciebat tempore patris mei, vel fratris mei; sed secundum modum forisfacti, ita emendabit sicut emendasset retro a tempore patris mei, in tempore aliorum antecessorum meorum. Quod si perfidiae vel sceleris convictus fuerit, sicut justum fuerit, sic emendet.

9. Murdra etiam retro ab illa die qua in regem coronatus fui omnia condono: et ea quae amodo facta fuerint, juste emendentur secundum lagam regis Eadwardi.

10. Forestas communi consensu baronum meorum in manu mea retinui, sicut pater meus eas habuit.

11. Militibus qui per loricas terras suas deserviunt, terras dominicarum carrucarum suarum quietas, ab omnibus geldis et ab omni opere, proprio dono meo concedo, ut sicut tam magno gravamine alleviati sint, ita se equis et armis bene instruant, ut apti et parati sint ad servitium meum et ad defensionem regni mei.

12. Pacem firmam in toto regno meo pono et teneri amodo praecipio.

13. Lagam Eadwardi regis vobis reddo cum illis emendationibus quibus pater meus eam emendavit consilio baronum suorum.

14. Si quis aliquid de rebus meis vel de rebus alicujus post obitum Willelmi regis fratris mei ceperit, totum cito reddatur absque emendatione, et si quis inde aliquid retinuerit, ille super quem inventum fuerit mihi graviter emendabit.

Testibus Mauricio Lundoniensi episcopo et Willelmo electo Wintoniensi episcopo et Gerardo Herefordensi episcopo et Henrico comite et Simone comite et Waltero Gifardo et Rodberto de Muntforte et Rogero Bigodo et Eudone dapifero et Roberto filio Hamonis et Roberto Malet. Apud Westmonasterium quando coronatus fui. Valete (Liebermann, *Gesetze*, pp. 521–3).

A. D. 1100. Letter of Henry I to Anselm.

Anselm was absent from England at the time of the death of William Rufus, and Henry I wrote the following letter by way of an apology for having hurried on the coronation without waiting for him. The letter is of extreme interest, as showing the importance which Henry attached to his formal election,

and as illustrating the constitutional position of the archbishop as the first adviser of the crown. It illustrates further the operation of the principle that the king's peace died with him, so that law was in abeyance until the peace of the new king was proclaimed at his coronation.

HENRICUS, Dei gratia rex Anglorum, piissimo patri suo spirituali Anselmo, Cantuariensi episcopo, salutem et omnis amicitiae exhibitionem.

Scias, pater carissime, quod frater meus rex Willelmus mortuus est, et ego nutu Dei, a clero et a populo Angliae electus, et quamvis invitus propter absentiam tui rex jam consecratus, requiro te sicut patrem cum omni populo Angliae, quatenus mihi filio tuo et eidem populo cujus tibi animarum cura commissa est, quam citius poteris, venias ad consulendum. Meipsum quidem ac totius regni Angliae populum tuo eorumque consilio qui tecum mihi consulere debent committo ; et precor ne tibi displiceat quod regiam benedictionem absque te suscepi ; de quo si fieri posset libentius eam susciperem quam de alio aliquo. Sed necessitas fuit talis quia inimici insurgere volebant contra me et populum quem habeo ad gubernandum, et ideo barones mei et idem populus noluerunt amplius eam protelari ; hac itaque occasione a tuis vicariis illam suscepi. Misissem quidem ad te a meo latere aliquos per quos tibi etiam de mea pecunia destinassem, sed pro morte fratris mei circa regnum Angliae ita totus orbis concussus est, ut nullatenus ad te salubriter pervenire potuissent. Laudo ergo et mando ne per Northmanniam venias sed per Witsand, et ego Doveram obviam habebo tibi barones meos, et pecuniam ad te recipiendum ; et invenies, Deo juvante, unde bene persolvere poteris quidquid mutuo accepisti. Festina igitur, pater, venire, ne mater nostra Cantuariensis ecclesia diu fluctuans et desolata causa tui amplius sustineat animarum desolationem. Teste Girardo episcopo, et Willelmo Wintoniensi electo episcopo, et Willelmo Warelwast, et comite Henrico, et Roberto filio Haimonis, et Haimone dapifero et aliis tam episcopis quam baronibus meis. Vale. (*Epist. Anselmi*, III. xli.)

1109–11. Order for the holding of the Courts of the Hundred and the Shire.

This charter was issued between A. D. 1109 and 1111 :—it is addressed, in the ancient form, to the bishop of the diocese and the sheriff of the county, and is a remarkable relic of Henry's national policy. Whether the feudal barons had attempted to get rid of the national courts of the shire and hundred, as might be inferred from the reference to King Edward's days, or had introduced novelties of process into them, as might seem likely from the fact that Bishop Sampson was a Norman ecclesiastic, and that Urso d'Abitot was hereditary sheriff of Worcestershire, does not appear; nor is it clear that this is not an isolated case. It would seem certain that the shire administration existed in full order under William the Conqueror, and for some purposes undoubtedly under William Rufus; but it may have been perverted to oppression, or even disregarded altogether by a perpetual or hereditary sheriff. It would appear, from the words of the writ, not improbable that the sheriff had in the king's name used these courts for the purpose of extraordinary exactions, such as the chroniclers loudly complain of at this period: for the future, when the king has need of such, he will summon the courts specially for the purpose: a promise which seems to throw no small amount of light on the way in which national taxation was negotiated. It may be asked how, in spite of this proclamation, the hundred courts declined so rapidly in importance and efficiency during the twelfth century. The explanation is to be found: first, in the growing importance of manorial courts which were frequently allowed to take view of frankpledge and in any case dealt with suits originally determined in the hundred; secondly, in the practice of granting or letting hundreds to private persons. We print below two charters of William Rufus and Stephen which illustrate this practice.

HENRICUS REX ANGLORUM Samsoni episcopo et Ursoni de Abetot et omnibus baronibus suis Francis et Anglis, de Wirecestrescira salutem.

Sciatis quod concedo et praecipio ut amodo comitatus mei et hundreda in illis locis et eisdem terminis sedeant, sicut sederunt in tempore regis Eadwardi et non aliter. Et nolo ut vicecomes meus propter aliquod necessarium suum, quod sibi pertineat, faciat ea sedere aliter. Ego enim, quando voluero, faciam ea satis summonere propter mea dominica necessaria ad voluntatem meam. Et si amodo exsurgat placitum de divisione terrarum, vel de preoccupatione, si est inter dominicos barones meos tractetur placitum in curia mea. Et si est inter vavasores alicujus baronis mei honoris, tractetur placitum in curia domini eorum. Et si est inter vavasores duorum dominorum tractetur in comitatu. Et hoc duello fiat, nisi in eis remanserit. Et volo et praecipio ut omnes de comitatu eant ad comitatus et hundreda sicut fecerunt in tempore regis Eadwardi, et non remaneat propter aliquam pacem meam vel quietudinem, quin sequantur placita mea et judicia mea, sicut tunc temporis fecissent.

Teste R. episcopo Lundoniae et Rogero episcopo et Ranulfo cancellario et R. comite de Mellent; apud Rading.—(Liebermann, *Gesetze*, i. 524.)

[*Grant of a hundred in fee-farm by William II.* Willelmus rex Anglorum omnibus vicecomitibus et baronibus suis de Huntendonscire salutem. Sciatis me concessisse abbati et monachis de Thorneia hundredum de Normancros in feudofirmam annuatim pro centum solidis, quos volo ut reddant vicecomiti meo Huntendoniae. Et prohibeo ne aliquis ministrorum meorum inde eis injuriam vel contumeliam faciat (Bodleian, Dugdale MS. 21, fol. 146 v°).

Grant of a hundred in frankalmoign by Stephen. Stephanus rex Angliae G. de Ver et omnibus hominibus tenentibus de hundredo de Stowe salutem. Sciatis me dedisse et concessisse in elemosinam ecclesiae Sancti Edmundi et monachis hundredum de Stowe cum omnibus consuetudinibus illi pertinentibus excepto jure coronae meae. Quare praecipio ut intendatis abbati Sancti Edmundi et ministris suis de omnibus rebus eidem hundredo pertinentibus, sicut unquam melius fecistis alicui tempore regis Henrici vel meo postea. Teste Nigello Episcopo Elyensi. (*English Hist. Review*, xxiv. p. 430.)]

EXTRACTS FROM THE 'LEGES HENRICI'.

This tract was written early in the reign of Henry I, between 1109 and 1118. It is a supplement to the digest of Old English law called *Quadripartitus*, and is the work of the same author—

a professional jurist, probably of foreign extraction, but domiciled in Wessex (perhaps at Winchester), who was either a pleader or a justice in the Curia Regis. The book relates to the jurisdiction and procedure of local courts, private courts, and the Curia Regis. The author gives much useful information about the state of the law in his own time. But his statements are not authoritative, and must be used with caution. He attaches too much importance to Old English law, particularly to the laws of Canute; he quotes rules, e. g. about wergilds, which were certainly obsolete in his time. Apparently an ecclesiastic, he exalts the jurisdiction of the courts-Christian. And finally he is inclined to supplement native law by the use of foreign sources, such as the Lex Salica, the Lex Ribuaria, and the Frankish Capitularies. But in these blunders he reveals the transitional character of the jurisprudence of his age. He is a valuable link between the Anglo-Saxon laws and the legislation of Henry II; between the Domesday notes of local customs and the treatise attributed to Glanvill. [See further F. Liebermann, *Über das englische Rechtsbuch Leges Henrici* (Halle, 1901).]

VI. 1. Regnum Angliae trifariam dividitur in Westsexiam et Mircenos et Danorum provinciam. Habet archiepiscopatus duos, episcopatus multos, comitatus xxxii. Ipsi vero comitatus in centurias et sipessocna distinguuntur. Centuriae vel hundreta in decanias vel decimas et dominorum plegios. 2. Legis etiam Anglicae trina est partitio, ad superiorem modum, alia enim Westsexia, alia Mircena, alia Denelaga est. . . .

VII. 1. Sicut antiqua fuerat institutione formatum, salutari regis imperio, vera nuper est recordatione firmatum, generalia comitatuum placita certis locis et vicibus et diffinito tempore, per singulas Angliae provincias convenire debere, nec ullis ultra fatigationibus agitari, nisi propria regis necessitas vel commune regni commodum saepius adjiciat. 2. Intersint autem episcopi, comites, vicedomini, vicarii, centenarii, aldermanni, praefecti, praepositi, barones, vavasores, tungrevii et ceteri terrarum domini, diligenter intendentes ne malorum impunitas aut gravionum pravitas vel judicum subversio

solita miseros laceratione conficiant. 3. Agantur itaque primo debita verae Christianitatis jura: secundo regis placita; postremo causae singulorum dignis satisfactionibus expleantur; et quoscunque sciregemot discordantes inveniet, vel amore congreget vel sequestret judicio. 4. Debet autem scyregemot et burgemot bis, hundreta vel wapentagia duodecies in anno congregari, et sex diebus antea submoneri, nisi publicum commodum vel efficientiae regis dominica necessitas terminum praeveniat. 5. Et si aliquid in hundretis agendorum penuria judicum vel casu aliquo transferendum sit in duos vel tres vel amplius hundretos, respectetur justo fine claudendum. 6. Et si quisquam violenta recti destitutione vel detentione in hundretis vel congruis agendorum locis causam suam ita turbaverit, ut ad comitatus audientiam pertrahatur, perdat eam, et de cetero componat sicut rectum sit. 7. Si quis baronum regis vel aliorum comitatui secundum legem interfuerit, totam terram quam illic in dominio suo habet, acquietare poterit. Eodem modo est si dapifer ejus legitime fuerit. Si uterque necessario desit, praepositus et sacerdos et quatuor de melioribus villae assint pro omnibus qui nominatim non erunt ad placitum submoniti. 8. Idem in hundreto decrevimus observandum de locis et vicibus et judicum observantiis, de causis singulorum justis examinationibus audiendis, de domini et dapiferi, vel sacerdotis et praepositi et meliorum hominum praesentia.

VIII. 1. Speciali tamen plenitudine, si opus est, bis in anno conveniant in hundretum suum quicunque liberi, tam hurthefest quam folgarii, ad dinoscendum scilicet inter cetera si decaniae plenae sint vel qui, quomodo, qua ratione recesserint vel superaccreverint. Praesit autem singulis hominum novenis decimus, et toti simul hundreto unus de melioribus et vocetur aldremannus, qui Dei leges et hominum jura vigilanti studeat observantia promovere. 2. Communis quippe commodi provida dispensatione statutum est, ut a duodecimo aetatis suae anno et in hundreto sit et decima, vel plegio liberali, quisquis were, vel wite, vel jure liberi, dignus curat aestimari. Conductitii, vel solidarii vero, vel stipendiarii dominorum plegio teneantur. 3. Et omnis dominus secum tales habeat qui ei justitiabiles sint, tanquam eos si peccaverint ad rectum habiturus, vel pro eis forsitan rationem redditurus. 4. Dictum est de illis qui terram non habent, si in alio comitatu serviant et cognationem suam visitent, qui eos inter agendum firmabit, eos ad publicum rectum ducat, si ibi forisfaciant, vel propter eos emendet. . . .

IX. 4. Et omnis causa terminetur vel hundreto vel comitatu vel halimoto socam habentium, vel dominorum curiis, vel divisis parium, vel certis agendorum locis adjacentibus. . . .

X. 1. Haec sunt jura quae rex Angliae solus et super omnes homines habet in terra sua commoda pacis ac securitatis institutione retenta ; infractio pacis regiae per manum vel breve datae ; Denagildum ; placitum brevium vel preceptorum ejus contemptorum; de famulis suis ubicumque occisis vel injuriatis; infidelitas et proditio ; quicunque despectus vel maliloquium de eo ; castellatio trium scannorum ; utlagaria ; furtum morte inpunitum ; murdrum ; falsaria monetae suae ; incendium ; hamsocna ; forestel ; fyrdinga ; flemeneferme ; premeditatus assultus ; robaria ; stretbreche ; presumptio terrae vel pecuniae regis ; thesaurus inventus ; naufragium ; maris laganum ; violentus concubitus ; raptus ; forestae ; relevationes baronum suorum ; qui in domo vel familia regis pugnabit ; qui in hostico pacem fregerit ; qui burgbotam vel brigbotam vel firdfare supersederit ; qui excommunicatum vel utlagam habet et tenet ; borchbrege ; qui in bello campali vel navali fugerit ; injustum judicium ; defectus justiciae ; prevaricatio legis regiae.

XII. 1. Quaedam (sc. placita) non possunt emendari, quae sunt : husbreche et bernet et open thifth et ebere morth et hlafordswike et infractio pacis ecclesiae vel manus regis per homicidium.

XV. Denagildum quod aliquando thingemannis dabatur, id est xii. denarii de unaquaque hyda per annum, si ad terminos non reddatur, wita emendetur.

XIX. 2. Omnium terrarum, quas rex in dominio suo habet, socnam pariter habet ; quarundam vero terrarum maneria dedit et soknam simul singularem vel communem ; quarundam terrarum maneria dedit, sed socnam sibi retinuit. Nec sequitur socna regis data maneria, sed magis est ex personis.

XXIX. Regis judices sunt barones comitatus qui liberas in eis terras habent, per quos debent causae singulorum alterna prosecutione tractari : villani vero vel cotseti, vel ferdingi, vel qui sunt hujusmodi viles et inopes personae, non sunt inter legum judices numerandi. . . .

XXXI. 3. Interesse comitatui debent episcopi, comites, et

ceterae potestates, quae Dei leges et saeculi negotia justa consideratione diffiniant. . . . . 7. Unusquisque per pares suos judicandus est, et ejusdem provinciae. . . .

LV. 1. Omni domino licet submonere hominem suum, ut ei sit ad rectum in curia sua : et si residens est ad remotius manerium ejusdem honoris unde tenet, ibit ad placitum, si dominus suus submoneat eum. Si dominus ejus diversos feodos teneat, non cogitur per legem homo unius honoris in alium ire placitum, nisi de alterius causa sit, ad quem dominus suus submonuerit eum. 2. Si homo de pluribus dominis et honoribus teneat, quantumcunque de aliis habeat, ei plus debet et ejus residens per judicium erit, cujus homo ligius erit. 3. Omnis homo fidem debet domino suo de vita et membris suis et terreno honore et observatione consilii sui, per honestum et utile, fide Dei et terrae principis salva. Furtum vero et proditio et murdrum et quae contra Deum sunt et fidem catholicam, nulli praecipienda vel peragenda sunt ; sed fides habeatur dominis omnibus, salva fide praecedentium, et magis ei cujus ligius est : et ejus licentia sit, si quis ejus alium sibi dominum faciat.

LVII. 9. Cum clerico qui uxorem habeat, et firmam teneat laicorum et rebus extrinsecis seculariter deditus sit, seculariter est disceptandum. De illis qui ad sacros ordines pertinent et eis qui sacris ordinibus promoti sunt, coram prelatis suis est agendum de omnibus inculpationibus maximis vel minoribus. —(Liebermann, *Gesetze*, i. 547 ff.)

Extracts from the so-called Laws of Edward the Confessor.

This law-book, much inferior in value to the Leges Henrici, seems to have been written by a foreign ecclesiastic, living probably in Warwickshire. It is largely a compilation from the Old English Laws. It was not made earlier than the year 1115 ; and Dr. Liebermann thinks it should be assigned to some date between 1135 and 1150 (*Ueber die Leges Edwardi Confessoris*, pp. 17, 18). Our extracts relate to private jurisdiction and the frank-pledge system.

IX. *De hiis qui ad judicium aquae vel ferri judicati sunt a justicia regis.* Die illo quo judicium fiet, assit ad judicium minister

episcopi cum clericis suis, et Justitia regis cum legalibus hominibus provinciae illius, ut videant et audiant quod aeque omnia fiant; et quos salvaverit Dominus per misericordiam Suam et justitiam eorum, quieti sint et liberi abscedant; et quos iniquitas et injustitia sua condemnaverit, Justitia regis de ipsis justitiam fieri faciat. Barones autem, qui curias suas habent de hominibus suis, videant ut ita agant de eis quatinus erga Deum reatum non incurrant, et regem non offendant. Et si placitum de hominibus aliorum baronum oritur in curiis suis, assit ad placitum Justitia regis, quoniam absque eo finiri non debet. Et si barones sunt qui judicia non habeant, in hundredo ubi placitum habitum fuerit, ad propinquiorem ecclesiam ubi judicium regis erit, determinandum est, salvis rectitudinibus baronum ipsorum.

XIII. Divisiones scirarum regis proprie cum judicio iiii. chiminorum regalium sunt. Divisiones hundredorum—wapentagiorum—comitibus, vicecomitibus, cum judicio comitatus.

XX. Alia est pax maxima, per quam omnes firmiori statu sustentantur: scilicet sub fidejussionis stabilitate, quam Angli vocant friborgas, praeter Eboracenses qui vocant eam *tyen manna tale*, hoc est, numerum x. hominum. Et hoc est, quod de omnibus villis totius regni sub decennali fidejussione debebant omnes esse, ita quod si unus ex decem forisfaceret, novem haberent eum ad rectum. Quod si aufugeret, et dicerent quod non possent habere eum ad rectum, daretur eis terminus a Justitia regis xxx. dierum et unius diei; et si possent eum invenire, adducerent eum ad Justitiam. Ipse quidem de suo restauret damnum quod fecerat, et de corpore suo fiat justitia, si ad hoc forisfecit. Si autem infra supradictum terminum inveniri non poterit, quia in omni friborge unus erat capitalis quem ipsi vocabant *friborges heved*, ipse capitalis acciperet duos de melioribus in suo friborge, et de tribus friborgis propinquioribus vicinis suis accipiat de unoquoque capitalem; et duos similiter de melioribus, si poterit eos habere, et se duodecimo expurget se et friborgum suum, si facere poterit, de forisfacto et fuga supradicti malefactoris. Quod si facere non poterit, restaurarent damnum quod ipse fecerat de proprio forisfactoris, quantum duraverit, et de suo; et erga Justitiam emendent secundum quod legaliter judicatum fuerit eis. Et tamen sacramentum quod non potuerunt

complere per vicinos, per se ipsos novem jurent: se esse immunes. Et si aliquando potuerint eum recuperare, aut adducent eum ad Justitiam, si potuerint, aut dicent Justitiae ubi sit.

XXI. Barones etiam milites suos et proprios servientes suos, scilicet dapiferos, pincernas, camerarios, cocos, pistores, sub suo friborgo habebant; et ipsi suos armigeros vel alios servientes suos sub suo friborgo; quod si ipsi forisfacerent, et clamor vicinorum insurgeret de eis, ipsi haberent eos ad rectum in curia sua, si haberent sacha et sochne, et tol et team, et infangenetheof.

XXII. SOCHNE: quod, si aliquis quaerit aliquid in terra sua, etiam furtum, sua est justitia si inventum fuerit an non. SACHA, quod si aliquis aliquem nominatim de aliquo calumniatus fuerit, et ipse negaverit, forisfactura probationis vel negationis, si evenerit, sua erit. TOL, quod nos vocamus theloneum, scilicet libertatem emendi et vendendi in terra sua. TEAM, quod si aliquis aliquid interciebatur super aliquem, et ipse non poterat warantum suum habere, erat forisfactura, et justitia; similiter de calumniatore si deficiebat. DE INFANGENETHEOF:—Justitia cognoscentis latronis sua est de homine suo, qui captus fuerit super terram suam. Et illi qui non habent consuetudines quas supra diximus, ante Justitiam regis faciant rectum etiam in hundredo, vel in wapentagiis, vel in syris.—(Liebermann, *Gesetze*, i. 627–72.)

1130–1133. CHARTER OF HENRY I TO THE CITIZENS OF LONDON.

The privileges of the citizens of London are not to be regarded as a fair specimen of the liberties of ordinary towns; but as a sort of type and standard of the amount of municipal independence and self-government at which the other towns of the country might be expected to aim. At a period at which the other towns were just struggling out of the condition of demesne, the Londoners were put in possession of the ferm or farm of Middlesex, with the right of appointing the sheriff: they were freed from the immediate jurisdiction of any tribunal except of their own appointment, from several universal imposts, from the obligation to accept trial by battle, from liability to *misericordia* or entire forfeiture, as well as from

tolls and local exactions such as ordinary charters specify. They have also their separate franchises secured, and their weekly courts. But they have not yet the character of a perpetual corporation or communa, and thus, although possessing by virtue of their associations in guilds, of their several franchises, of their feudal courts, and of their shire organization under the sheriff, many elements of strength, consolidation, and independence, they have not a compact organization as a municipal body. The city is an accumulation of distinct and different corporate bodies, but not yet a perfect municipality, nor, although it was recognized in the reign of Stephen as a *communio*, did it gain the legal status before the reign of Richard I.[1]

Carta Civibus Londoniarum.

Henricus Dei gratia rex Anglorum, archiepiscopo Cantuariensi et episcopis et abbatibus, et comitibus et baronibus et justitiariis et vicecomitibus et omnibus fidelibus suis, Francis et Anglicis, totius Angliae, salutem. Sciatis me concessisse, civibus meis Londoniarum, tenendum Middlesexe ad firmam pro ccc. libris ad compotum, ipsis et haeredibus suis, de me et haeredibus meis, ita quod ipsi cives ponent vicecomitem qualem voluerint de se ipsis, et justitiam quemcunque vel qualem voluerint de seipsis, ad custodiendum placita coronae meae et eadem placitanda ; et nullus alius erit justitia super ipsos homines Londoniarum. Et cives non placitabunt extra muros civitatis pro ullo placito ; et sint quieti de scot et de Danegildo et de murdre, et nullus eorum faciat bellum. Et si quis civium de placitis coronae implacitatus fuerit, per sacramentum quod judicatum fuerit in civitate, se disrationet homo Londoniarum. Et infra muros civitatis nullus hospitetur, neque de mea familia neque de alia vi alicui hospitium liberetur. Et omnes homines Londoniarum sint quieti et liberi, et omnes eorum res et per totam Angliam et per portus maris, de theolonio et passagio et lestagio et omnibus aliis consuetudinibus. Et

[1] The date of the charter of Henry I is a problem. It is not later than 1133, since it was granted at Westminster and Henry was not in England in 1134 or 1135. It was not in force in 1130, when the Pipe Roll shows us the Londoners paying a much larger ferm than the charter specifies. Mr. Round therefore concludes that the charter is of later date than the Pipe Roll, and this view is accepted by Dr. Liebermann.

ecclesiae et barones et cives teneant et habeant bene et in pace socnas suas cum omnibus consuetudinibus, ita quod hospites qui in soccis hospitantur nulli dent consuetudines, nisi illi cujus socca fuerit, vel ministro suo quem ibi posuerit. Et homo Londoniarum non judicetur in misericordia pecuniae, nisi ad suam were, scilicet ad c. solidos ; dico de placito quod ad pecuniam pertineat. Et amplius non sit miskenninga in hustenge neque in folkesmote neque in aliis placitis infra civitatem. Et husting sedeat semel in hebdomada, videlicet die Lunae. Et terras suas et vadimonia et debita civibus meis habere faciam infra civitatem et extra. Et de terris de quibus ad me clamaverint rectum eis tenebo lege civitatis. Et si quis thelonium vel consuetudinem a civibus Londoniarum ceperit, cives Londoniarum in civitate capiant de burgo vel de villa, ubi thelonium vel consuetudo capta fuit, quantum homo Londoniarum pro thelonio dedit, et proinde de damno ceperit. Et omnes debitores qui civibus debita debent eis reddant, vel in Londoniis se disrationent quod non debent. Quod si reddere noluerint neque ad disrationandum venire, tunc cives quibus debita sua debent capiant intra civitatem namia sua, vel de burgo vel villa vel de comitatu in quo manet qui debitum debet. Et cives habeant fugationes suas ad fugandum sicut melius et plenius habuerunt antecessores eorum, scilicet in Chiltre et Middlesexe et Sureie. Testibus episcopo Winton., et Roberto filio Richer., et Hugone Bigot, et Aluredo de Toteneis, et Willelmo de Albini, et Huberto regis Camerario, et Willelmo de Montfichet, et Hagulfo de Tani, et Johanne Belet, et Roberto filio Siwardi. Datum apud Westmonasterium.—(Liebermann, *Gesetze*, i. 525.)

The Charter granted by Archbishop Thurstan to Beverley.

The scarcity of original charters granted to towns by Henry I, or during his reign, is probably to be accounted for by the fact that such early grants of privileges were regarded as superseded by the later and larger ones, and were less carefully preserved. Those of Beverley perhaps owe their preservation to the fact that the adjustment of the rights of the archbishop, the canons, and the burghers, necessitated a constant reference to them. The following charter is of great value, as illustrating the

privileges which had been conferred by the king upon York. The *Hans-hus* of the north is the *Guildhall* of the south; the *statuta* are the by-laws or written customs of the gild-merchant.[1] The archbishop, by virtue no doubt of the king's authority, frees the burghers from toll not only in his own demesnes, but throughout the shire. The ferm rent is fixed at eighteen marks *per annum*. Further than this the charter does not go; nor perhaps did the charter of York, upon the model of which it was drawn up. The number of towns and cities which were in the demesne of the bishops and barons at this time was very large; and it is not to be supposed that even when the lord was prevailed upon to grant a charter, he had either the power or the will to confer so large privileges as the king, or a great prince, like the archbishop of York, with the king's authorization, could bestow.

Turstinus, Dei gratia Eboracensis Archiepiscopus, cunctis Christi fidelibus tam praesentibus quam futuris, salutem et Dei benedictionem et suam.

Notum sit vobis me dedisse et concessisse, et consilio capituli Eboracensis et Beverlacensis et consilio meorum baronum mea carta confirmasse, hominibus de Beverlaco omnes libertates eisdem legibus quibus illi de Eboraco habent in sua civitate. Praeterea non lateat vos quod dominus Henricus rex noster nobis concessit potestatem faciendi hoc de bona voluntate sua, et sua carta confirmavit statuta nostra et leges nostras juxta formam legum burgensium de Eboraco, salva dignitate et honore Dei et Sancti Johannis et nostri et canonicorum, ut ita scilicet honorem eleemosynarum praedecessorum suorum exaltaret et promoveret cum omnibus his liberis consuetudinibus.

Volo ut burgenses mei de Beverlaco habeant suam *hans-hus*, quam eis do, et concedo ut ibi sua statuta pertractent ad honorem Dei et Sancti Johannis et canonicorum et ad totius villatus emendationem, eadem libertatis lege sicut illi de Eboraco habent in sua *hans-hus*. Concedo etiam eis thelonium in perpetuum pro viii. marcis annuatim; praeterquam in tribus festis in quibus theloneum ad nos et ad canonicos spectat, in

[1] On the whole subject of the gild-merchant, and its relation to the government of the borough, see Gross, *Gild Merchant* (Oxford, 1890).

festo scilicet Sancti Johannis Confessoris in Maio, et in festo Translationis Sancti Johannis, et in Nativitate Sancti Johannis Baptistae ; in his vero tribus festis omnes burgenses de Beverlaco ab omni teloneo liberos et quietos dimisi. Hujus etiam cartae testimonio eisdem burgensibus liberos introitus et exitus concessi in villa et extra villam, in plano et bosco et marisco, in viis et in semitis, et ceteris convenientiis, excepto in pratis et bladis, sicut unquam melius liberius et largius aliquis possit concedere et confirmare ; et sciatis quod sint liberi et quieti ab omni telonio per totam schiram Eboraci sicut illi de Eboraco. Et volo ut quicunque hoc disfecerit, anathema sit, sicut ipsius ecclesiae Sancti Johannis asserit consuetudo et sicut statutum est in ecclesia Sancti Johannis.

Hii sunt testes ; Galfridus Murdac, Nigellus Fossard, Alanus de Perci, Walterus Espec, Eustachius filius Johannis, Tomas praepositus, Turstinus archidiaconus, Herebertus can[onicus], Willelmus filius Tole, Willelmus Baiocensis ; coram tota familia archiepiscopi, clericis et laicis, in Eboraco.—(*Hist. MSS. Comm. Report on the MSS. of the Corporation of Beverley* (1900), p. 2.)

The Customs of Newcastle-upon-Tyne.

The *consuetudines* mentioned so constantly in the charters of boroughs were the common or customary laws which had existed in them immemorially, and were amended from time to time, as by-laws. These are not rehearsed in the charters, perhaps because of the difficulty of enumerating them perfectly, and the danger of creating a spirit of rivalry amongst similar bodies ; nor would it be well, whilst giving power to alter and amend them, to place them in solemn record in a charter, which might be regarded as infringed by any such attempt at alteration. The perpetuation of such customs by oral tradition only would involve no risk, at a period at which the whole law of the land was customary ; nor is it at all clear that the customary law had not a position in the constitution strong enough to resist, and even, as in the case of weights and measures, successfully to defy, statutory enactments. The customs of Newcastle-upon-Tyne are taken from a report,

drawn up in the reign of Henry II, as to their character under Henry I. It will be seen that they chiefly concern legal and trade privileges and show very little tendency towards independent organization. They are, in fact, the *statuta* which the burghers were empowered to deal with in their own assemblies; and the body which treated them was doubtless of the nature of the homage of a manor under its reeve or praepositus assisted by the leet jury—such a body as continues to make and enforce such regulations, with a very much diminished sphere of action, to the present day.

Hae sunt leges et consuetudines quas Burgenses Novi Castelli super Tinam habuerunt tempore Henrici Regis Angliae et habere debent.

Burgenses possunt namiare foris habitantes infra suum forum et extra et infra suam domum et extra, et infra suum burgum et extra, sine licentia praepositi, nisi comitia teneantur in burgo, et nisi in exercitu sint vel custodia castelli.

Super burgensem non potest burgensis namum capere sine licentia praepositi.

Si burgensis foris habitantibus aliquid accommodaverit in burgo, ipse debitor si concedat reddat debitum, vel in burgo faciat rectum.

Placita quae in burgo surgunt ibidem teneantur et finiantur, praeter illa quae sunt coronae regis.

Si aliquis burgensis de aliqua loquela appelletur, non placitabit extra burgum nisi ex defectu curiae. Nec debet respondere sine die et termino, nisi prius in stultam responsionem inciderit, nisi de rebus quae ad coronam pertinent.

Si navis apud Tinemue applicuerit quae velit discedere, licet burgensibus emere quod voluerint.

Inter burgensem et mercatorem si placitum oriatur, finiatur ante tertiam refluxionem maris.

Quicquid mercaturae navis per mare advexerit ad terram debet ferri praeter sal; et allec debet vendi in navim.

Si quis terram in burgagio uno anno et una die juste et sine calumnia tenuerit, non respondeat calumnianti, nisi calumnians extra regnum Angliae fuerit, vel ubi sit puer non habens potestatem loquendi.

Si burgensis habeat filium in domo sua ad mensam suam, filius ejus eandem habeat libertatem quam et pater suus.

Si rusticus in burgo veniat manere, et ibi per annum unum et diem sicut burgensis maneat in burgo, ex toto remaneat, nisi prius ab ipso vel domino suo praelocutum sit ad terminum remanere.

Si quis burgensis de re aliqua appellaverit, non potest super burgensem pugnare, sed per legem se defendat burgensis, nisi sit de proditione, unde debeat se defendere bello. Nec burgensis contra villanum poterit pugnare nisi prius de burgagio exierit.

Mercator aliquis, nisi burgensis, non potest extra villam emere nec lanam nec coria nec mercatoria alia nec infra burgum nisi burgensibus.

Si forisfactum contigerit burgensi, dabit vi. oras praeposito.

In burgo non est merchet, nec heriet, nec blodwit, nec stengesdint.

Unusquisque burgensis potest habere suum furnum et molam manualem si velit, salvo jure furni regis.

Si femina sit in suo forisfacto de pane vel de cervisia, nullus debet intromittere nisi praepositus. Si bis forisfecerit, castigetur per . . . forisfactum. Si tertio forisfecerit justitia de ea fiat.

Nullus nisi burgensis poterit emere telas ad tingendas nec facere nec secare.

Burgensis potest dare terram suam et vendere et ire quo voluerit libere et quiete, nisi sit in calumnia.—(*Acts of Parliament of Scotland*, i. 33. 34.)

A. D. 1135–1154. STEPHEN

ARCHBISHOPS OF CANTERBURY: William of Corbeuil, 1123–1136; Theobald, 1139–1161. CHIEF JUSTICE: Roger Bishop of Salisbury, 1135–1139. CHANCELLORS: Roger le Poor, 1135–1139; Philip, 1139–1142; Robert of Ghent, 1142–1154.

The aversion of the Normans to an Angevin ruler, the unpopularity of the Empress, and the uncertainty about Henry's final determination as to a successor, facilitated the accession of Stephen, although he had no strong party nor any claim to the throne. The opportunity was seized by his

promptness; and the election, grudgingly and informally transacted, was confirmed by the body of the barons and bishops in spite of their oaths, and subsequently approved by the pope. But the continuance of the support at first afforded had to be purchased by large gifts and larger promises, which Stephen, who was facile rather than false, too readily bestowed. The charters which he issued went indeed no further than was just and fair, but the weakness of his hold on the royal authority was shown conspicuously by his extravagant grants of the crown lands and by his inability to secure the execution of the laws. As soon as his power of purchasing support was exhausted he was defied by the barons, and a general paralysis of government followed. Those barons and bishops who had not already formed unconstitutional designs were compelled in self-defence to fortify their castles and prepare for civil war. Stephen, conscious of the weakness of his position, attempted, by the arrest of bishops Roger and Alexander, to strike terror into the feudal party. Instead of doing this, the measure had the effect of throwing the whole administration of the country into the utmost disorder, and alienating the clergy at the same time. Nor could the struggle with the Empress have lasted so long as it did, or have had such an issue, if the baronage as a body had been determined to put an end to it in her favour. Neither she nor Stephen had any real hold on the country: the feudal party fought rather for its own advantage than for theirs; and the stoppage of the administrative machinery deprived the nation at large of any chance of united action. Both parties fought with mercenary forces, and the people suffered. After a long struggle the bishops negotiated a peace which gave the crown to Stephen for the remainder of his life, and the succession to Henry of Anjou: and advantage was taken of this compromise to force on both parties the reforms and restoration of good government, the carrying out of which marks so strongly and clearly the reign of Henry II. After the arrest of the bishops

by Stephen in 1139, the constitutional history of the reign is in abeyance until the treaty of Westminster in 1153.

Excerpts.

WILL. MALMESB., *Hist. Nov.* i. §§ 460–1. Ille (sc. Stephanus) ubi a Londoniensibus et Wintoniensibus in regem exceptus est, etiam Rogerum Salesberiensem episcopum et Willelmum de Ponte arcus, custodes thesaurorum regalium, ad se transduxit. Ne tamen veritas celetur posteris, omnes ejus conatus irriti fuissent nisi Henricus frater ejus Wintoniensis episcopus, qui modo Apostolicae sedis legatus est in Anglia, placidum ei commodasset assensum : spe scilicet captus amplissima, quod Stephanus avi sui Willelmi in regni moderamine mores servaret praecipueque in Ecclesiastici vigoris disciplina. Quapropter districto sacramento quod a Stephano Willelmus Cantuariensis Archiepiscopus exegit de libertate reddenda Ecclesiae et conservanda, Episcopus Wintoniensis se mediatorem et vadem apposuit. . . . Coronatus est ergo in regem Angliae Stephanus XI° kalendas Januarii, Dominica tribus episcopis praesentibus, archiepiscopo, Wintoniensi, Salisberiensi, nullis abbatibus, paucissimis optimatibus, XX^a II^a die post excessum avunculi, anno Dominicae Incarnationis M°C°XXX°V°.

GESTA STEPHANI, p. 5. Cumque . . . cum paucissimo comitatu applicuisset, ad ipsam totius regionis reginam metropolim, maturato itinere, Londonias devenit. Concussa protinus in adventu viri civitas illa cum laeto strepitu obviam ei occurrit . . . . Majores igitur natu, consultuque quique provectiores, concilium coegere, deque regni statu pro arbitrio suo utilia in commune providentes, ad regem eligendum unanimiter conspiravere. Dicebant enim omne regnum sinistrae fortunae casibus subjacere, ubi ipsa totius regiminis praesentia, justitiaeque caput, defuerit. Idcirco operae pretium eis esse regem quam mature constituere, qui ad communis utilitatis pacem reformandam et rebellibus regni armatus occurreret et legum instituta juste disponeret. Id quoque sui esse juris, suique specialiter privilegii, ut si rex ipsorum quoquo modo obiret, alius suo provisu in regno substituendus e vestigio succederet. . . . His igitur auditis et ab omnibus gratiose, nulloque aperte contradicente, receptis, de regno suscipiendo eum in commune consultum conscivere, regemque, omnium ad hoc concordante favore, constituere : firmata prius utrimque pactione, peractoque, ut

vulgus asserebat, mutuo juramento, ut eum cives quoad viveret opibus sustentarent, viribus tutarentur, ipse autem ad regnum pacificandum ad omnium eorundem suffragium toto sese conatu accingeret.

WILL. MALMESB., *Hist. Nov.* i. §§ 463–4. Eodem anno post Pascha Robertus comes Glocestrae . . . homagium regi fecit sub conditione quadam, scilicet quamdiu ille dignitatem suam integre custodiret et sibi pacta servaret . . . Eodem anno, non multum post adventum comitis, juraverunt episcopi fidelitatem regi quamdiu ille libertatem ecclesiae et vigorem disciplinae conservaret.

HEN. HUNT. p. 258. Inde perrexit rex Stephanus apud Oxeneforde, ubi recordatus est et confirmavit pacta quae Deo et populo et sanctae Ecclesiae concesserat in die coronationis suae ; quae sunt haec ; primo vovit quod defunctis episcopis nunquam retineret ecclesias in manu sua, sed statim electioni canonicae consentiens episcopis eas investiret. Secundo vovit quod nullius clerici vel laici silvas in manu sua retineret, sicut rex Henricus fecerat, qui singulis annis implacitaverat eos, si vel venationem cepissent in silvis propriis, vel si eas ad necessitates suas exstirparent vel diminuerent. . . . Tertio vovit quod Denegeldum, id est, duos solidos ad hidam, quos antecessores sui accipere solebant singulis annis, in aeternum condonaret. Haec principaliter Deo vovit et alia, sed nihil horum tenuit.

A. D. 1138. WILL. MALMESB., *Hist. Nov.* i. § 467. Anno Incarnationis Dominicae M°C°XXX°VIII°, intestinis dissidiis Anglia quatiebatur ; multi siquidem quos nobilitas generis vel magnitudo animi vel potius viridioris aetatis audacia ad illicita praecipitabat, a rege hi praedia, hi castella, postremo quaecunque semel collibuisset, petere non verebantur ; quae cum ille dare differret . . . illi continuo ira commoti castella contra eum obfirmabant. . . . Denique multos etiam comites, qui ante non fuerant, instituit, applicitis possessionibus et redditibus quae proprio jure regi competebant. . . .

Ib. ii. § 483. Sub Stephano plures ex Flandria et Britannia, rapto vivere assueti, spe magnarum praedarum Angliam involabant.

PETERBOROUGH CHRONICLE, *ad annum* 1137. Þa the suikes undergæton Þ he milde man was 7 softe 7 god 7 na iustise ne dide, Þa diden hi alle wunder . . . Alle hi wæron forsworen 7 here treothes forloren ; for æuric rice man his

castles makede 7 agænes him heolden 7 fylden þe land ful of castles. Hi suencten suyðe þe uurecce men of þe land mid castelweorces. Þa þe castles uuaren maked, þa fylden hi mid deoules 7 yuele men. Þa namen hi þa men þe hi wenden þ ani god hefden, bathe be nihtes 7 be dæies, carlmen 7 wimmen 7 diden heom in prisun efter gold 7 syluer 7 pined heom untellendlice pining. . . . And þ lastede þa xix wintre, wile Stephne wæs king 7 æure it was uuerse 7 uuerse. Hi læiden gæildes on the tunes æureum wile 7 clepeden it tenserie. Þa þe uurecce men ne hadden nan more to gyuen, þa ræuedan hi 7 brendon alle the tunes . . . ne forbaren hi nouther circe ne cyrceiærd ; oc namm al þe god þ þarinne was 7 brenden sythen þe cyrce 7 altegædere.

[When the traitors perceived that he was a mild man, and soft and good, and did no justice, then did they all marvel . . . they were all forsworn and forsook their troth ; for every rich man made his castles and held them against him, and they filled the land full of castles. They grievously oppressed the wretched men of the land with castle-works. When the castles were built, they filled them with devils and evil men. Then took they those men that they thought had any goods, by night and by day, peasant-men and women, and put them in prison for the sake of their gold and silver and tormented them with unspeakable torments. . . . And that lasted the nineteen winters while Stephen was king, and ever it was worse and worse. They laid gelds on the townships continually, and called it *tenserie*. When the wretched men had no more to give, they robbed and burned all the townships . . . nor did they spare church or churchyard, but took all the goods that were therein, and then burned the church and all.]

A. D. 1140. HEN. HUNT. p. 267. Quinto anno post Natale fugavit rex Stephanus Nigellum episcopum Elyensem. . . . Ubi autem ad Natale vel ad Pascha fuerit dicere non attinet. Jam quippe curiae solemnes et ornatus regii schematis ab antiqua serie descendens prorsus evanuerant. Ingens thesauri copia jam deperierat, pax in regno nulla, caedibus, incendiis, rapinis omnia exterminabantur.

WILL. NEWB., *Hist. Angl.* i. c. xxii. Et primo quidem videbatur regnum Angliae scissum esse in duo ; quibusdam regi, quibusdam imperatrici faventibus. Non quod vel rex vel imperatrix suae parti potenter imperaret, sed quod suorum bellicis quisque studiis pro tempore niteretur. Neuter enim in suos

imperiose agere et disciplinae vigorem exercere poterat, sed uterque suos, ne a se deficerent, nihil negando mulcebant. Sane inter partes, . . . diu multumque certatum est, alternante fortuna. Processu vero temporis inter eas jam saepius fortunae infidelitatem expertas, remissiores motus esse coepere ; quod tamen Angliae non cessit in bonum. Illis quippe diutinae concertationis pertaesis, et mollius agentibus, provinciales discordantium procerum motus efferbuere. Castella quoque per singulas provincias studio partium crebra surrexerant, erantque in Anglia quodammodo tot reges vel potius tyranni, quot domini castellorum, habentes singuli percussuram proprii numismatis, et potestatem subditis regio more dicendi juris. Cumque ita singuli excellere quaererent ut quidam superiorem, quidam vel parem sustinere non possent, feralibus inter se odiis disceptantes, rapinis atque incendiis regiones clarissimas corruperunt, et, in fertilissima olim patria, fere omne robur panis absumpserunt. Aquilonalis vero regio quae in potestatem David regis Scottorum usque ad flumen Tesiam cesserat, per ejusdem regis industriam in pace agebat.

A.D. 1141. WILL. MALMESB., *Hist. Nov.* iii. § 492. Feria secunda post octavas Paschae concilium archiepiscopi Cantuariae Theobaldi et omnium episcoporum Angliae multorumque abbatum, legato praesidente, Wintoniae ingenti apparatu inceptum. . . . . Ipsa die post recitata scripta excusatoria quibus absentiam suam quidam tutati sunt sevocavit in partem legatus episcopos habuitque cum eis arcanum consilii sui ; post mox abbates, postremo archidiaconi convocati. Ex consilio nihil processit in publicum, volutabatur tamen per omnium mentes et ora quid foret agendum.

§ 493. Feria tertia hoc fere sensu legati cucurrit oratio ; '. . . . Itaque quia Deus judicium Suum de fratre meo exercuit, ut eum me nesciente in potestatem potentium incidere permitteret ; ne regnum vacillet si regnante careat, omnes vos pro jure legationis meae huc convenire invitavi. Ventilata est hesterno die causa secreto coram majori parte cleri Angliae, ad cujus jus potissimum spectat principem eligere simulque ordinare. Invocata itaque primo, ut par est, in auxilium Divinitate, filiam pacifici regis, gloriosi regis, divitis regis, boni regis, et nostro tempore incomparabilis, in Angliae Normanniaeque dominam eligimus, et ei fidem et manutenementum promittimus.'

§ 494. Cumque omnes praesentes vel modeste acclamassent

sententiae vel silentes non contradixissent, subjecit legatus, 'Londonienses, qui sunt quasi optimates, pro magnitudine civitatis, in Anglia, nunciis nostris convenimus, et conductum ut tuto veniant misimus, eosque confido non ultra hunc diem moraturos ; bona venia usque cras sustineamus.'

§ 495. Feria quarta venerunt Londonienses et in concilium introducti, causam suam eatenus egerunt ut dicerent missos se a communione quam vocant Londoniarum, non certamina sed preces offerre ut dominus suus rex de captione liberaretur. . . .

§ 496. . . . . Feria quinta solutum est concilium excommunicatis ante multis qui regiarum erant partium. . . .

A.D. 1142. Charter of Empress Matilda to Geoffrey de Mandeville, Earl of Essex (Round, *G. de M.* p. 166). Sciatis me reddidisse et concessisse Comiti Gaufredo Essexae omnia tenementa sua . . . in feodo et haereditate sibi et haeredibus suis, ad tenendum de me et haeredibus meis ; videlicet in terris et turribus, in castellis et bailliis. Et nominatim Turrim Lundoniae cum castello quod subtus est, ad firmandum et efforciandum ad voluntatem suam ; et vicecomitatum Lundoniae et Middelsex per trecentas libras sicut Gaufredus avus ejus tenuit ; et vicecomitatum Essex per trecentas libras sicut idem G. avus ejus tenuit. Et vicecomitatum de Hertfordscira per sexaginta libras sicut avus ejus tenuit. Et praeter hoc do et concedo eidem Gaufredo quod habeat haereditabiliter Justiciariam Lundoniae et Middelsex et Essex et de Hertfordscira ita quod nulla alia justicia placitet in hiis supradictis vicecomitatibus nisi per eum.

A.D. 1147–1151. Treaty between the Earls of Chester and Leicester (*Palaeograph. Soc.* ii. pl. 40). Haec est conventio inter Comitem Ranulfum Cestriae et Robertum Comitem Legrecestriae, et finalis pax et concordia quae fuit concessa et divisa ab eis coram secundo Roberto episcopo Lincolniae . . . . Si oportuerit Comitem Legrecestriae ire super Comitem Cestriae cum ligio domino suo, non poterit ducere secum plus quam viginti milites ; et si Comes Legrecestriae vel isti viginti milites aliquid ceperint de rebus Comitis Cestriae, totum reddetur. Nec ligius dominus Comitis Legrecestriae nec aliquis alius poterit forisfacere Comiti Cestriae nec suis de castris ipsius Comitis Legrecestriae nec de terra sua ; et ita quod Comes Legrecestriae non poterit propter aliquam causam vel propter aliquem casum impedire corpus Comitis Cestriae, nisi eum defidaverit quindecim dies

ante. Et Comes Legrecestriae debet juvare Comitem Cestriae contra omnes homines praeter ligium dominum ipsius Comitis Legrecestriae et Comitem Simonem. . . . Nec Comes Cestriae nec Comes Legrecestriae debent firmare castrum aliquod novum inter Hinchelai et Couintre, nec inter Hinchelai et Hardredeshellam . . . nisi communi assensu utriusque. Et si aliquis in predictis locis vel infra predictos terminos firmaret castrum, uterque alteri erit auxilio sine malo ingenio donec castrum diruatur.

A.D. 1152. HENR. HUNTINGD. p. 283. Anno decimo septimo rex Stephanus filium suum Eustachium regio diademate proposuit insignire. Postulans igitur ab archiepiscopo praedicto [Theobaldo], et caeteris episcopis quos ibidem congregaverat, ut eum in regem ungerent et benedictione sua confirmarent, repulsam passus est. Papa siquidem litteris suis Archiepiscopo prohibuerat ne filium regis in regem sublimarent, videlicet quia rex Stephanus regnum contra jusjurandum praeripuisse videbatur.

A.D. 1153. THE TREATY OF WESTMINSTER. (*Foedera*, i. 18.) Stephanus rex Angliae . . . omnibus fidelibus suis Angliae. Sciatis quod ego Rex Angliae Stephanus Henricum ducem Normanniae post me successorem Angliae regni et haeredem meum jure haereditario constitui; et sic ei et haeredibus suis regnum Angliae donavi et confirmavi. Dux vero propter hunc honorem et donationem et confirmationem sibi a me factam, homagium mihi et sacramento securitatem fecit; scilicet quod fidelis mihi erit et vitam et honorem meum pro suo posse custodiet per conventiones inter nos praelocutas, quae in hac carta continentur. . . . Comites et barones ducis, qui nunquam homines mei fuerunt, pro honore quem domino suo feci homagium et sacramentum mihi fecerunt, salvis conventionibus inter me et ducem factis: caeteri vero qui antea mihi homagium fecerunt, fidelitatem mihi fecerunt sicut domino. Et si dux a praemissis recederet, omnino a servitio ejus ipsi cessarent, quousque errata corrigeret. . . . Comites etiam et barones mei ligium homagium duci fecerunt, salva mea fidelitate quamdiu vixero et regnum tenuero, simili lege, quod si ego a praemissis recederem, omnino a servitio meo cessarent, quousque errata corrigerem. Cives etiam civitatum, et homines castrorum quae in dominio meo habebo, ex praecepto meo homagium et securitatem duci fecerunt, salva fidelitate mea

quamdiu vixero et fidem tenuero. . . . Archiepiscopi, episcopi atque abbates de regno Angliae, ex praecepto meo fidelitatem sacramento duci fecerunt. . . . Archiepiscopi et episcopi, ab utraque parte, in manu ceperunt, quod si quis nostrum a praedictis conventionibus recederet, tamdiu eum ecclesiastica justitia coercebunt, quousque errata corrigat. . . . In negotiis autem regni ego consilio ducis operabor. Ego vero in toto regno Angliae, tam in parte ducis quam in mea, regalem justitiam exercebo.

A.D. 1135. The First Charter of Stephen.

This is probably the charter issued by Stephen at his coronation, and is of the most formal description, specifying nothing; and although of great import had it been the act of a strong or resolutely just sovereign, meaning very little under the hand of one too weak to enforce it.

Stephanus Dei gratia rex Anglorum, Justitiis, Vicecomitibus, Baronibus et omnibus ministris et fidelibus suis Francis et Anglicis salutem.

Sciatis me concessisse et praesenti carta mea confirmasse omnibus baronibus et hominibus meis de Anglia omnes libertates et bonas leges quas Henricus rex Anglorum avunculus meus eis dedit et concessit, et omnes bonas leges et bonas consuetudines eis concedo quas habuerunt tempore Regis Edwardi.

Quare volo et firmiter praecipio quod habeant et teneant omnes illas bonas leges et libertates de me et haeredibus meis ipsi et haeredes sui libere quiete et plenarie, et prohibeo ne quis eis super hiis molestiam vel impedimentum, vel diminutionem faciat super forisfacturam meam.

Teste Willelmo Martel apud Londonias.—(*Statutes of the Realm—Charters of Liberties*, p. 4.)

A.D. 1136. The Second Charter of Stephen.

This document, which is of a character far more definite and more binding than the preceding, was issued by Stephen at the first great council of his reign, at the moment when all parties seemed to acquiesce in his accession. Mr. Round has shown (*Geoffrey de Mandeville*, pp. 19–23) that this assembly

met first at London, on the occasion of the Easter-feast, and was adjourned to Oxford, where it met early in April. Stephen's rehearsal of his title is curious and important; it is worth while to compare it with that of Henry I, but it need not necessarily be interpreted as showing a consciousness of weakness. The provisions are based on those of Henry's charter. Neither of the charters of Stephen will be found to agree with the account given by Henry of Huntingdon (*supra*, p. 137) of his promises to the people of the abolition of Danegeld, or to the clergy of entire freedom of election.

Carta Stephani Regis de libertatibus Ecclesiae Anglicanae et regni.

Ego Stephanus Dei gratia assensu cleri et populi in regem Anglorum electus, et a Willelmo Cantuariensi archiepiscopo et sanctae Romanae ecclesiae legato consecratus, et ab Innocentio sanctae Romanae sedis pontifice confirmatus, respectu et amore Dei sanctam ecclesiam liberam esse concedo et debitam reverentiam illi confirmo.

Nihil me in ecclesia vel rebus ecclesiasticis simoniace acturum vel permissurum esse promitto. Ecclesiasticarum personarum et omnium clericorum et rerum eorum justitiam et potestatem et distributionem honorum ecclesiasticorum in manu episcoporum esse perhibeo et confirmo. Dignitates ecclesiarum privilegiis earum confirmatas, et consuetudines earum antiquo tenore habitas, inviolate manere statuo et concedo. Omnes ecclesiarum possessiones et tenuras quas die illa habuerunt qua Willelmus rex avus meus fuit vivus et mortuus, sine omni calumniantium reclamatione, eis liberas et absolutas esse concedo. Si quid vero de habitis vel possessis ante mortem ejusdem regis, quibus modo careat ecclesia, deinceps repetierit, indulgentiae et dispensationi meae, vel restituendum vel discutiendum, reservo. Quaecunque vero post mortem ipsius regis liberalitate regum vel largitione principum, oblatione vel comparatione, vel qualibet transmutatione fidelium eis collata sunt, confirmo. Pacem et justitiam me in omnibus facturum, et pro posse meo conservaturum eis promitto.

Forestas quas Willelmus avus meus et Willelmus avunculus meus instituerunt et habuerunt mihi reservo. Ceteras omnes,

quas rex Henricus superaddidit, ecclesiis et regno quietas reddo et concedo.

Si quis episcopus vel abbas vel alia ecclesiastica persona ante mortem suam rationabiliter sua distribuerit vel distribuenda statuerit, firmum manere concedo. Si vero morte praeoccupatus fuerit, pro salute animae ejus ecclesiae consilio eadem fiat distributio. Dum vero sedes propriis pastoribus vacuae fuerint, ipsas et earum possessiones omnes in manu et custodia clericorum vel proborum hominum ejusdem ecclesiae committam, donec pastor canonice substituatur.

Omnes exactiones et injustitias et mescheningas, sive per vicecomites vel per alios quoslibet male inductas, funditus exstirpo.

Bonas leges et antiquas et justas consuetudines, in murdris et placitis et aliis causis, observabo, et observari praecipio, et constituo. Haec omnia concedo et confirmo salva regia et justa dignitate mea.

Testibus W. Cantuariensi archiepiscopo, et Hugone Rothomagensi archiepiscopo, et Henrico Wintoniensi episcopo, et Rogero Sarisbiriensi episcopo, et A. Lincolniensi episcopo, et Nigello Eliensi episcopo, et Evrardo Norwicensi episcopo, et Simone Wigornensi episcopo, et Bernardo episcopo de Sancto David, et Audoeno Ebroicensi episcopo, et Ricardo Abrincensi episcopo, et Roberto Herefordensi episcopo, et Johanne Rouecestrensi episcopo, et Athelulfo Carlolensi episcopo ; et Rogero cancellario ; et Henrico nepote regis ; et Roberto comite Gloecestriae, et Willelmo comite de Warenna, et Rannulfo comite Cestriae, et Roberto comite de Warewic ; et Roberto de Ver, et Milone de Gloecestria, et Brientio filio Comitis, et Roberto de Oilli, conestabulis ; et Willelmo Martel, et Hugone Bigot, et Hunfrido de Buhun, et Simone de Belcamp, dapiferis ; et Willelmo de Albiniaco, et Eudone Martel pincernis ; et Roberto de Ferreriis, et Willelmo Peverel de Notingeham ; et Simone de Saintliz ; et Willelmo de Albamarla, et Pagano filio Johannis, et Hamone de Sancto Claro, et Ilberto de Laceio.

Apud Oxeneforde, anno ab Incarnatione Domini M°C°XXX°VI°, set regni mei primo.—(*Statutes of the Realm—Charters of Liberties*, p. 3. *Will Malmesb., Hist. Nov.* i. See also the description of the original, in the possession of the Dean and Chapter of Salisbury, by R. L. Poole, *Hist. MSS. Comm. Report on MSS. in Various Collections*, vol i (1901), p. 384.)

PART IV

SELECT CHARTERS AND EXCERPTS; *Henry II* A. D. 1154–1189

ARCHBISHOPS OF CANTERBURY: Theobald, 1139–1161; Thomas Becket, 1162–1170; Richard, 1174–1184; Baldwin, 1185–1190. CHIEF JUSTICES: Robert, Earl of Leicester, 1154–1167; Richard de Lucy, 1154–1179; Ranulf Glanvill, 1180–1189. CHANCELLORS: Thomas Becket, 1154–1162; Ralph de Warneville, 1173 1181; Geoffrey, the king's son, 1181–1189.

THE reign of Henry II was the period of amalgamation of the English and Normans so far as concerned their legal and constitutional status. All vestiges of distinction between the two races before the law disappear, and although further changes are required before a perfect union of interest and ideas is completed by a perfect fusion of blood, they are now on an equality, and even the nominal distinction is sunk in the common name of English. Henry himself ascended the throne without any shadow of opposition to his title, and free from any obligations to the factions which had struggled for their own ends under the pretence of supporting Stephen and Matilda. He was fitted for the position of a national sovereign, not only by this freedom from party connexion, but by the training of his earlier years, which had been so changeful and unsettled as to prevent him, although he was heir of Normandy and Anjou, and by his marriage lord of all the south-west of France, from being moulded into the prevalent type of any of the races which he represented. He was not a Norman nor an Angevin nor a Poitevin by policy any more than by character, and came to England unfettered by any prepossessions that would make him anti-English. His position in this respect was strengthened by the development of his personal character, which, although in many points exceptionable, was singularly well suited to the condition and age of the

nation that received him. His great sagacity enabled him to see the true interest of England, and his ability for business to keep in hand the strings of an intricate policy without falling under the sway of any minister whose designs might be more warped by national or party inclinations than his own ; even that clear-sighted selfishness which kept him during the whole of his life free from complicity in the struggles of foreign nations, and intent on the security and completeness of his own dominion was a characteristic which brought much good to the reviving spirit of England. His policy was to govern England as an English king, to utilize and train all the elements of life by new organization, and, by asserting his royal rights and those of his people, to keep the feudal system in its proper subordination to the national interests.

His reign falls naturally into four epochs : the first, extending from his accession to his quarrel with Thomas Becket ; the second, from that point to the death of the archbishop ; the third, until the death of the younger Henry in 1183 ; and the fourth, to his own death in 1189.

I. The first ten years of the reign were singularly happy and prosperous. Henry's first ministers were the men whose exertions had secured his succession : Theobald, Archbishop of Canterbury ; Thomas, the Chancellor ; and the Earl of Leicester, whose support he had obtained whilst he was Duke of Normandy. With their co-operation he proceeded at once to carry out the plan of reform dictated by the Peace of Wallingford, recalled the Bishop of Ely to the Exchequer, and resumed, after consultation with his assembled barons, the estates of the crown, which had been alienated by Stephen and Matilda. He then ordered the demolition of the illegal castles which had been the strongholds of baronial tyranny, and enforced by arms the entire submission of the few who, like Roger of Gloucester, Hugh Mortimer, William of Aumâle, and Hugh Bigot, attempted to defeat the measure. In all this he seems to have acted on the plan of his grandfather, whose

magnificence he rivalled in his court, and whose customs he as well as his subjects, regarding them through the hazy atmosphere of the intervening reign, looked on as the ideal of good government. The war of this epoch is that of Toulouse, which affects English history only as the occasion of the great Scutage. The restoration of the northern counties by the Scots, the reformation of the coinage, the careful securing of the title to the crown to his eldest son, and the formation of the design of Irish conquest, fill up the list of English transactions of the period. In default of more distinct and elaborate history, the writings of John of Salisbury and the letters of Gilbert Foliot are the best sources of information for the time. In them we can see how many other influences, besides the break-up of feudal government throughout Europe, were at work towards the improvement of society. The revived study of the Roman law which had reached Oxford in Stephen's time,[1] although it never had the effect of Romanizing the English common law, had, as an instrument of education, a great bearing on the spread of orderly and equitable ideas of jurisprudence; the rapid growth of the universities of Paris and Oxford, which were the outward expression of the life of early scholasticism, conduced to the maintenance in the educated class of an ideal of free government, drawn from ancient Greek and Roman history, which, although never likely to be realized in detail, tended to make tyranny such as that of William Rufus impossible; and the result of this was to give to the court of Henry II during these years a show of refinement as well as of magnificence which promised well for the future. All such omens were unfortunately belied by the outbreak of the great quarrel.

II. Whatever may have been the positive influence of Thomas Becket as the king's confidant and chancellor—and

[1] The reference is to the Italian jurist, Magister Vacarius, who was for a time in the service of Archbishop Theobald, and lectured at Oxford. See Liebermann's article, 'Magister Vacarius' (*Eng. Hist. Review*, xi. pp. 305–14), and Vinogradoff, *Roman Law in the Middle Ages*.

there is nothing to show that it was ever strong enough to control or guide the purposes of his master—the removal of it, which followed shortly after his consecration as archbishop, coincides in time with the origin of Henry's legal reforms. In the ecclesiastical portion of these reforms there is no reason to suppose that Henry was actuated by any motives of hostility to the clergy, or even by a desire to increase the royal power; the abuses against which they were aimed were glaring, and the mechanism by which they might be carried out was easy, and likely to be effective. The lines on which the project of reform was drawn were the 'avitae consuetudines',[1] the state of Church law which had prevailed under Henry I, and the ministers by whom it was to be carried out were men of pure and religious character. But, on the other hand, there were certain difficulties of detail caused by the jealousies which had already arisen between the archbishop and the court; and there was a strong party amongst the clergy, especially the monastic body, which was conscious of the great reformation begun by Hildebrand, and carried out by St. Bernard, and saw in the future a further improvement, working in the same groove, and not to be, as men like the king and even such partisans as John of Salisbury saw, a resultant from other forces of progress besides their own. The struggle with Becket had the worst effect on Henry's character, making him reckless of religious and moral obligation, fierce and irritable. But it did not entirely stop his designs for the reformation of the law. Although he was absent from England during the larger part of the period, it is marked certainly by the expansion of the provincial judicature, in the mission of itinerant justices,

[1] The clause affecting criminous clerks was contrary to the canon law, as rightly interpreted. But Henry II seems to have thought that, even on this point, a case for reform was supplied by certain passages of the *Decretum* of Gratian (see F. W. Maitland on 'Henry II and Criminous Clerks' in *Canon Law in the Church of England* (1898)). The Church's jurisdiction over criminous clerks had been recognized by Stephen in his second charter of liberties. But to Henry II his predecessor was a mere usurper whose promises he was in no way bound to observe.

and by the Assize of Clarendon. Possibly it witnessed several of the other reforms, the effect of which we see in the work of Ranulf Glanvill, and which form a step in constitutional progress the importance of which cannot be exaggerated. The Becket struggle itself only indirectly affects the constitution, and that in ways which belong chiefly to other principles now being worked out.

III. The coronation of the younger Henry is the link which connects the second and third epochs of the political history of the reign. It was the most important of the series of events which led to the archbishop's death, and also of those which led to that unhappy estrangement between the king and his sons in which the age saw Becket's death avenged. The design of securing the succession of England for his family appears to have had in Henry's mind a greater importance than is easily realized, seeing that practically there was no competitor. It is probable that, like Canute and William the Conqueror, he saw the hopelessness of attempting to found an empire on the union of his territories, and had an early purpose of dividing them. The practice of securing for the heir-apparent the confirmation of his title by the homage of the barons was natural enough, although the effect of it was, as he had seen in his own case, very uncertain. This was, however, very early negotiated, and both the child William and the child Henry received the recognition. But the history of France suggested a stronger and safer expedient: in that country, since the accession of the reigning dynasty, it had become a custom for the son to be crowned before his father's death, in accordance with many, and those calamitous, precedents in the Empires East and West. This plan was adopted by Henry II in the case of his eldest surviving son: after being contemplated for some years, it was carried out under the most unfortunate circumstances, and had the most unfortunate results. The young king became a centre of disaffection among the barons whom the great quarrel between

his father and the archbishop had unsettled and roused to an attempt to regain their power: he himself found that his coronation involved the burdens without the powers or pleasures of royalty, and was unable to see in his father's design of separating his estates the most certain pledge of a secure title to the English kingdom and a happy reign.

Under the malignant influence of Eleanor and Lewis VII, the sons rose against the father, the great earls whose territories covered the middle of England took advantage of the distraction, and the Scots moved down upon the north. Henry's great ability was tasked to the utmost, but the English people stood by him, and he was victorious; the northern people and barons, with the single exception of the Mowbrays, were faithful, and by them the Scottish invasion was repelled; the rebellion of the midland earls collapsed at the appearance of the king, and the towns received him as a deliverer. The continental struggle outlasted the English one but a short time; the undutiful sons submitted, and Henry personally was stronger than ever. But his character again declines, the children for whom he has been working remain undutiful, his wife is a prisoner, and his own life sadly changed from its first promise. Notwithstanding this, he laboured hard for England, and after the submission of the rebels took measures of the most effective sort, constructive rather than destructive, for security against a reaction. It is to this period that the Assize of Northampton and the completion of the organization of both the Curia Regis and the itinerant tribunals belong; as well as the Assize of Arms, and other minor but significant reforms, which owe their origination perhaps to the great justiciar Ranulf Glanvill. The death of the young king, whom his father had never ceased attempting to draw to his side by the gift of as much power as could be safely entrusted to him, but who had never stopped in his course of treachery and ingratitude, closes this eventful epoch.

IV. The remaining years of the reign were occupied with the

accidental results of the events that had gone before: there were a few reforms at home, such as the Assize of the Forest, and there were considerable preparations for a crusade, but the chief work was the maintenance of peace in France against the machinations of Philip, and against the rebellion of the remaining children of Eleanor. By this last the king's power and prestige in Europe were seriously impaired and his heart broken.

Excerpts.

A.D. 1154. WILL. NEWB. ii. c. 1. Anno a partu Virginis MCLIV. Henricus Henrici majoris ex filia olim imperatrice nepos, post mortem regis Stephani a Normannia in Angliam veniens, haereditarium regnum suscepit, conclamatus ab omnibus. . . . Denique edicto praecepit ut illi qui ex gentibus exteris in Angliam sub rege Stephano praedarum gratia tanquam ad militandum confluxerant, et maxime Flandrenses, quorum magna tunc Angliae incubabat multitudo, propriis regionibus redderentur, fatalem eis diem constituens, quem in Anglia sustinere certi foret discriminis. Quo edicto pavefacti, ita in brevi dilapsi sunt ut quasi phantasmata in momento disparuisse viderentur, stupentibus plurimis quomodo repente evanuissent. Mox castella nova quae in diebus avi sui nequaquam exstiterant, complanari praecepit, praeter pauca in locis opportunis sita quae vel ipse retinere vel a pacificis ad regni munimen retineri voluit. Publicae quoque disciplinae in primis sollicitudinem habuit; et ut legum vigor in Anglia revivisceret qui sub Rege Stephano extinctus sepultusque videbatur, cura propensiore sategit. Ordinatisque in cunctis regni finibus juris et legum ministris qui vel improborum audaciam coercerent, vel interpellantibus secundum causarum merita justitiam exhiberent, ipse vel in deliciis erat, vel majoribus negotiis regiam operam impendebat.

c. 2. Considerans autem rex, quod regii redditus breves essent, qui avito tempore uberes fuerant, eo quod regia dominica per mollitiem regis Stephani ad alios multosque dominos majori ex parte migrassent, praecepit ea cum omni integritate a quibuscunque detentoribus resignari, et in jus statumque pristinum revocari. Et hi quidem, qui regiis oppidis seu vicis hactenus incliti fuerant, chartas, quas a rege

Stephano vel extorserant vel obsequiis emerant, quibus tuti forent, protulerunt. Sed quoniam chartae invasoris juri legitimi principis praejudicium facere minime debuerunt, eisdem instrumentis tuti esse minime potuerunt.

A.D. 1154. GERVAS. i. p. 160. In Nativitate Domini tenuit rex curiam suam apud Beremundeseiam, ubi cum principibus suis de statu regni et pace reformanda tractans, proposuit animo alienigenas gentes de regno propellere et munitiunculas pessimas per totam Angliam solo tenus dissipare.

A.D. 1159. ROB. DE MONTE, p. 202. Rex igitur Henricus, iturus in expeditionem praedictam et considerans longitudinem et difficultatem viae, nolens vexare agrarios milites nec burgensium nec rusticorum multitudinem, sumptis lx. solidis Andegavensibus in Normannia de feudo uniuscujusque loricae, et de reliquis omnibus tam in Normannia quam in Anglia, sive etiam aliis terris suis, secundum hoc quod ei visum fuit, capitales barones suos cum paucis secum duxit, solidarios vero milites innumeros.

GERVAS. i. p. 167. Hoc anno rex Henricus scotagium sive scuagium de Anglia accepit, cujus summa fuit centum millia et quater viginti millia librarum argenti.

V. S. THOMAE, *auct.* GRIM, p. 373. Commorante rege in praedio suo apud Wodestoke, praesente archiepiscopo et primis patriae, inter alia movetur quaestio de consuetudine quadam quae in Anglia tenebatur. Dabantur de hida bini solidi ministris regis qui vicecomitum loco comitatus servabant, quos voluit rex conscribere fisco et reditibus propriis associare. Cui archiepiscopus in faciem restitit, dicens non debere eos exigi pro reditibus, 'nec pro reditu,' inquit, 'dabimus eos, domine rex, salvo beneplacito vestro: sed si digne nobis deservierint vicecomites, et servientes vel ministri provinciarum, et homines nostros manutenuerint, nequaquam eis deerimus in auxilium.' Rex autem aegre ferens archiepiscopi responsionem, 'Per oculos Dei' ait 'dabuntur pro reditu, et in scriptura regis scribentur; nec dignum est ut contradicas, cum nemo tuos contra voluntatem tuam gravare velit.' Praevidens archiepiscopus et praecavens ne per ipsius patientiam consuetudo induceretur unde posteri gravarentur, 'per reverentiam oculorum quos jurasti, domine mi rex, non dabuntur de tota terra mea, et de jure ecclesiae ne unus quidem denarius.'

A.D. 1163. SUMMA CAUSAE INTER REGEM ET THOMAM (*Materials for History of Thomas Becket*, iv. 201). Henricus nobilis rex Anglorum . . . venit Londoniam kalendis Octob. anno M°C°LXIII°, et archiepiscopus Cantuariensis Thomas, et Eboracensis R[ogerius] et omnes episcopi Angliae. . . . Ecce, praeter spem omnium rex Anglorum quaedam satis dura proponere coepit. . . . 'Cogito' inquit 'cogitationes pacis moveorque multum pro bono pacis quae in regno meo clericorum malitia pertur batur, qui rapinas et furta perpetrant, et homicidia plerumque. Peto igitur et volo ut tuo, domine Cantuariensis, et coepiscoporum tuorum consensu clerici in maleficiis deprehensi vel confessi exauctorentur ilico, et mox curiae meae lictoribus tradantur ut, omni defensione ecclesiae destituti, corporaliter perimantur. Volo etiam et peto ut in illa exauctoratione de meis officialibus aliquem interesse consentiatis, ut exauctoratum clericum mox comprehendat ne qua ei fiat copia corporalem vindictam effugiendi'. . . . Dominus vero Cantuariensis, sacris canonibus consentiens, in contrarium allegabat, asserens omnino injustum fore, et contra canones et contra Deum, si ob unius punitionem delicti duo quis subeat judicia. 'Nec enim Deus judicat bis in idipsum.'

A.D. 1164. RAD. DE DICETO, i. 312. Ex mandato regis concurrentibus episcopis et proceribus apud Clarendune, VIII. kalendas Februarii, post immensos tractatus rex tandem ad hoc animos praelatorum inflexit, ut regni consuetudines archiepiscoporum et episcoporum auctoritate firmarentur et scriptis. . . .

Apud Norhamtunam III. idus Octobris : convenerunt illuc episcopi comites, barones totius regni mandato regis urgente. (Omnes qui de rege tenerent in capite GRIM, *V. S. Thomae*, p. 390.)

W. F. STEPH., *V. S. Thomae*, p. 51. Et aliam diem . . . rex . . . praefixit, litteris suis ad vicecomitem Cantiae de archiepiscopo citando emissis . . . nec aliam per litteras sibi directas solemnem et primam, ut antiqui moris erat, habuerat archiepiscopus ad concilium citationem.

A.D. 1170. BENED. ABB. i. 4. Peracta igitur sollemnitate Paschali, perrexit inde Lundonias, et ibi magnum celebravit concilium de coronatione Henrici filii sui majoris, et de statutis regni sui, et ibidem deposuit fere omnes vicecomites Angliae et ballivos eorum, pro eo quod male tractaverant homines regni sui.

A.D. 1172. Ib. i. 31. Interim rex . . . circa festum Sancti Matthaei apostoli venit in Normanniam ad Abbrincam civitatem, et invenit ibi praenominatos cardinales. Et v^to^ kalendas Octobris, feria quarta, . . . satisfactionem fecit Deo et summo pontifici de morte beati Thomae Cantuariensis martyris. . . . Juravit etiam quod neque appellationes impediret, neque impediri permitteret, quin libere fierent in regno suo ad Romanum pontificem in ecclesiasticis causis ; sic tamen ut si ei suspecti fuerint aliqui, securitatem faciant quod malum suum vel regni sui non quaerant. . . . Juravit etiam quod consuetudines quae inductae sunt contra ecclesias terrae suae in tempore suo penitus dimitteret.

A.D. 1176. Ib. i. 107. . . . Circa festum Conversionis Sancti Pauli, venit dominus rex usque Norhamtoniam, et magnum ibi celebravit concilium de statutis regni sui, coram episcopis et comitibus et baronibus terrae suae, et coram eis per consilium regis Henrici filii sui, et per consilium comitum et baronum et militum et hominum suorum, hanc subscriptam assisam fecit, et eam teneri praecepit ; scilicet quod regnum suum divisit in sex partes per quarum singulas tres Justitias constituit. . . .

A.D. 1176. RAD. DE DICETO, i. 410 (from a letter of Henry II to Pope Alexander III). Capitula quae subscripta sunt in regno nostro tenenda concessimus. Videlicet quod clericus de caetero non trahatur ante judicem secularem in persona sua de aliquo criminali, neque de aliquo forisfacto, excepto forisfacto forestae meae, et excepto laico feodo unde mihi vel alii domino seculari laicum debetur servitium. Concedo etiam quod archiepiscopatus, episcopatus et abbatiae non teneantur in manu mea ultra annum, nisi urgente necessitate et evidenti de causa quae propter hoc non fuerit inventa ut diutius teneantur. Concedo etiam quod interfectores clericorum, qui eos scienter vel praemeditate interfecerint, convicti vel confessi coram justitiario meo, praesente episcopo vel ejus officiali, praeter consuetam laicorum vindictam, suam et suorum de haereditate quae eos contingit perpetuam sustineant exhaeredationem. Concedo etiam quod clerici non cogantur facere duellum.

A.D. 1177. BEN. ABB. i. 160. (Mense Maio) . . transtulit se rex usque Windeshoveres et Rogerus Eboracensis archiepiscopus et praenominati episcopi cum eo. Venerunt autem ibi

ad eum fere omnes comites et barones et milites regni, parati equis et armis ad eundum quo rex praeciperet. Cumque ibidem diu de pace et stabilitate regni tractassent, per consilium episcoporum et comitum et baronum suorum removit custodes castellorum Angliae, et tradidit ea ad custodiendum militibus qui erant de privata familia sua.

A.D. 1178. Ib. i. 207. Itaque dominus rex moram faciens in Anglia quaesivit de Justitiis quos in Anglia constituerat, si bene et modeste tractaverunt homines regni; et cum didicisset quod terra et homines terrae nimis gravati essent ex tanta Justitiarum multitudine, quia octodecim erant numero; per consilium sapientium regni sui quinque tantum elegit, duos scilicet clericos et tres laicos, et erant omnes de privata familia sua. Et statuit quod illi quinque audirent omnes clamores regni, et rectum facerent, et quod a curia regis non recederent, sed ibi ad audiendum clamores hominum remanerent; ita ut si aliqua quaestio inter eos veniret, quae per eos ad finem duci non posset, auditui regio praesentaretur, et sicut ei et sapientioribus regni placeret terminaretur.

A.D. 1179. Ib. i. 238. Tunc rex congregatis episcopis et comitibus et proceribus regni apud Windesovers, communi eorum consilio, coram rege filio suo, divisit in quatuor partes Angliam et unicuique parti praefecit viros sapientes de regno; et postea misit eos per partes regni eis assignatas, ut justitiam exercerent in populo.

R. DE DICETO, i. 434. Rex pater Anglorum his plurimum quaerens prodesse qui minimum possunt, vicecomites publicis functionibus et ratiociniis involutos commodis propriis invigilantes invenit. Quare de communi salute magis et magis sollicitus, certis in locis jurisdictiones aliis fidelibus suis in regno commisit, ut cognitus per provincias publicae potestatis adventus terrorem incuteret delinquentibus; fiscalia supprimentes, et quae principis laederent majestatem, regiam indignationem incurrerent; ferarum cubilia temerariis ausibus incursantes, vel mulcta reprimeret vel carceralis custodia maceraret diutius; metus poenae profugos absterreret, animadversio gravis percelleret interceptos; homicidae suspendio punirentur, proditores damnarentur exilio, levioribus in flagitiis deprehensi truncatione membrorum notabiles redderentur; invasores locorum vigor compesceret judiciarius, enormitatem damni satisfactio maturata sarciret. Rursus aliquot temporum

labente curriculo, rex intentissimus ad justitiam singulis exhibendam, ut arctius subditis provideret, fidem voluit experiri multorum. In variis namque professionibus amatores justitiae sollicitius investigans, quem munera non corrumperent inter hominum millia requirebat, et sic animum a proposito non immutans, circa personas mutabiles immutabilem semper saepe mutavit sententiam. Quantum itaque claustralis professio querelas pauperum relevaverit, quantum cinguli militaris auctoritas restiterit potentioribus et vivere jure communi coegerit, novit calamitas oppressorum. Nam abbates modo, comites modo, capitaneos modo, domesticos modo, familiarissimos modo, causis audiendis et examinandis praeposuit. Rex denique cum tot fideles suos conditionibus tam diversis obnoxios publicis utilitatibus praefecisset, nec alicujus publice retractasset sententiam, suffragium aliud commodis privatorum utilius non inveniens, oculos erexit ad caelum. . . . Transcensis igitur omnibus quae mutabilitati poterant subjacere de facili, rex ad sanctuarium Dei recurrens, Wintoniensem, Elyensem, Norwicensem episcopos archijustitiarios regni, sed certis in locis, ea forsan consideratione constituit, ut si ceteri quos longe prius praemiserat ipsum regnantem in terra minus reveriti fuerint, isti saltem Deum Regem regum, hominum Creatorem, Judicem conscientiarum, operum Retributorem, revererentur attentius et ardentius, ut nec ad sinistram declinantes vel ad dexteram, nec opprimerent in judicio pauperem, nec causam divitis ob acceptionem muneris colorare praesumerent. . . . Ab episcopis igitur supradictis et a conjudicibus eorundem querelis justitia mediante decisis, reservatis quibusdam ad principis audientiam, regi ratio redditur administrationis, VI. kalendas Septembris, apud Westmonasterium. . . . Nam omnes communi sponsione devincti tactis sacrosanctis evangeliis publice juraverunt, nemine deferente, se conservaturos in posterum modis omnibus suas manus immunes a munere. Promisit illud idem archiepiscopus in verbo veritatis apud Pageham.

A.D. 1184. BEN. ABB. i. 311. Interim papa Lucius misit nuncios suos ad regem Angliae postulans ab eo et ab clericatu Angliae auxilium ad defensionem patrimonii Beati Petri contra Romanos. Rex vero in Angliam misit nuncium suum ad episcopos Angliae ut per eorum consilium providentius responderet nunciis domini papae. Illi vero congregati Lundoniis

coram Ranulfo de Glanvil, justitiario regis, de communi eorum consilio mandaverunt domino regi, quod in consuetudinem verti posset ad detrimentum regni si permitteret nuncios domini papae in Angliam venire ad collectam faciendam ; et ideo de eorum consilio erat, ut dominus rex secundum voluntatem suam et honorem, auxilium faceret domino papae. Dicebant enim quod tolerabilius esset et plus eis placeret, quod dominus rex de eis acciperet si vellet recompensationem auxilii quod ipse faceret domino papae. Quorum consilio dominus rex adquievit.

Ib. p. 323. Eodem anno post obitum Thomae filii Bernardi, qui, post discessum Alani de Novil, fuit magister forestarius et justitiarius per totam Angliam, dominus rex divisit forestas suas in Anglia in plures partes et unicuique parti praefecit quatuor justitiarios, scilicet duos clericos et duos milites : et constituit in unaquaque parte duos servientes de domo et familia ipsius, custodes venationis et viridis super omnes forestarios alios tam regis quam baronum et militum ; et postea fecit praedictos justitiarios et servientes jurare, tactis sacrosanctis evangeliis, quod . . . assisas de foresta servarent.

A.D. 1188. Ib. ii. 33. Rex consilio fidelium suorum elegit clericos et laicos de quorum prudentia confidebat, et misit eos per singulos comitatus ad decimas colligendas secundum praedictam praeordinationem in terris suis transmarinis constitutam. Sed de singulis urbibus totius Angliae fecit eligere omnes ditiores, scilicet de Lundonia cc. et de Eboraco c. et de aliis urbibus secundum numerum et quantitatem eorum, et fecit omnes sibi praesentari diebus et locis statutis. De quibus cepit decimam reddituum et mobilium suorum secundum aestimationem virorum fidelium qui redditus et mobilia eorum noverant. Si quos autem invenisset rebelles, statim fecit eos incarcerari et in vinculis teneri donec ultimum quadrantem persolverent. Similiter fecit de Judaeis terrae suae, unde inaestimabilem sibi adquisivit pecuniam.

Charter of Liberties issued by Henry II.

This charter of Henry II, which, like the similar one of Stephen, was issued probably at the coronation, is simply a confirmation of that of his grandfather, but would naturally be construed to cover any reforms carried out on the principles

set forth in that charter, such as the fixing a reasonable sum for reliefs, and the administration of justice in the country at large through visitations of the Curia Regis. The meaning of *consuetudo*, like our word *custom*, must often be understood with reference to pecuniary exactions, especially when qualified by the word *malae*. Richard de Luci, who attests the charter, is the Great Justiciar, and the fact that it is attested by him points to the date of the charter as being probably earlier than the appointment of Thomas as Chancellor.

Carta Regis Henrici Secundi.

Henricus Dei gratia Rex Anglorum, dux Normanniae et Aquitanniae, et comes Andegaviae, omnibus comitibus, baronibus et fidelibus suis Francis et Anglicis salutem. Sciatis me ad honorem Dei et sanctae ecclesiae et pro communi emendatione totius regni mei, concessisse et reddidisse et praesenti carta mea confirmasse Deo et sanctae ecclesiae et omnibus comitibus et baronibus et omnibus hominibus meis omnes concessiones et donationes et libertates et liberas consuetudines quas rex Henricus avus meus eis dedit et concessit. Similiter etiam omnes malas consuetudines quas ipse delevit et remisit, ego remitto et deleri concedo pro me et haeredibus meis. Quare volo et firmiter praecipio quod sancta ecclesia et omnes comites et barones et omnes mei homines, omnes illas consuetudines et donationes et libertates et liberas consuetudines habeant et teneant, libere et quiete, bene et in pace et integre, de me et haeredibus meis, sibi et haeredibus suis, adeo libere et quiete et plenarie in omnibus sicut Rex Henricus avus meus eis dedit et concessit et carta sua confirmavit. Teste Ricardo de Luci apud Westmonasterium. —(*Statutes of the Realm—Charters of Liberties*, p. 4.)

1161–1162. Extract from the Great Roll of the Pipe of the 8th year of Henry II.

Oxenefordscira.

Manesser Arsic reddit Compotum de firma de Oxenefordscira.
In thesauro £76 13*s*. 6*d*. blanc. in ii. talliis.
In elemosina constituta militibus de Templo i. marcam.
Et in liberatione constituta infirmis tredecim £19 15*s*. 5*d*. et eisdem 65*s*. ad pannos.

Et in donis Abbati de Oseneia 9*s*. 5½*d*.; et canonicis de Sancta Frideswida 25*s*. pro consuetudine feriae.
Et eisdem 17*s*. 7½*d*. de novo dono.
Et in liberatione constituta Willelmo filio Baldewini 102*s*. 6*d*. per breve Regis.
Et in terris datis Engelgero de Bohun £20 blanc. in Blochesham: et eidem in villa Ricardi de Luci £20 numero.
Et Comiti Flandriae £76 blanc. in Betona, cum 100*s*. de Wicha. Et Hugoni de Plugeno £42 10*s*. blanc. in Hedendona. Et abbatissae de Godesto 100*s*. blanc. in eadem villa. Et in eadem villa Henrico de Oxeneford 50*s*. blanc.
Et Gilleberto Angevino £10 numero in Besentona. Et in eadem villa Abbatissae de Godesto 100*s*. numero.
Et in eadem villa Waltero Bustard 5*s*. numero. Et in eadem villa abbati de Oseneia 6*s*. 4*d*. numero.
Et Henrico de Oxeneford 23*s*. 4*d*. in eadem villa. Et Gaufrido de Ivoi £40 13*s*. 4*d*. numero in eadem villa.
Et in operatione domorum infirmorum de Oxeneford 60*s*. Et ad prata falcanda et fenum parandum et conducendum ad Wudestoc 60*s*.
Et pro Banco ad Scaccarium tenendum 2*s*. 1*d*. Et in liberatione probatoris 4*d*.
Et in soltis per breve Regis Hugoni de Plugenoi 45*s*. 10*d*. Et militibus de Templo 17*d*. Et fratribus Hospitalis 3*s*. 6*d*.
Et Abbatissae de Godesto 16*s*. Et Monachis de Ledahela 10*s*. pro Danegeldo. Et in suo superplusagio per breve regis Radulfo Waspail 111*s*. 7*d*. Et in terris datis, in Bordesleia, monachis 100*s*. blanc. Et episcopo de Sagio £10 blanc. in Brictelmestona. Et in suo superplusagio de Danegeldo 38*s*. 4*d*.
Et in calumpnia de Bensintona £25: et de quatuor praeteritis annis quoquo anno £25. Et quietus est.
Idem vicecomes reddit compotum de £10 de veteribus placitis. In perdona per breve Regis Baronibus de Warengefordia £10. Et quietus est.
Ricardus de Canvilla debet £18 de sex annis de foresta de Stantona. Et idem debet 60*s*. de septimo anno.
Alanus Rasur reddit compotum de £7 de censu Forestae de Corneburi. In thesauro £6 6*s*.
Et in decimis constitutis canonicis de Lincoln 14*s*. Et quietus est.
Idem vicecomes reddit compotum de £15 de firma de Nortona. In thesauro liberavit. Et quietus est.

Idem vicecomes reddit compotum de 40*s.* pro murdro de Langetrehundreda. In perdona per breve Regis Henrico filio Geroldi 4*s.* 2*d.* Et debet 35*s.* 10*d.*

Idem vicecomes reddit compotum de 40*s.* pro murdro de Luveclonhundreda. In thesauro liberavit. Et quietus est.

Idem vicecomes reddit compotum de 40*s.* pro murdro de Keneswarde hundreda.

In perdona per breve regis comiti Legecestriae 4*s.* 2*d.* Et monachis de Bruaria 4*s.* 2*d.* Et Willelmo de Bellocampo 2*s.* 1*d.*

Et Willelmo de Caisneto 3*s.* 4*d.* Et Henrico de Oilli 5*s.* 5*d.* Summa 19*s.* 2*d.* Et debet 20*s.* 10*d.*

Nova Placita et Novae Conventiones.

Idem vicecomes reddit compotum de Danegeldo. In thesauro £100. Et in soltis per breve Regis Radulfo Waspail £14 5*s.* 10*d.* Et in perdona per breve Regis comiti Legrecestriae 71*s.* Et Reginaldo de Sancto Valerico £20 7*s.* 6*d.*

Et Willelmo de Caisneto £8 6*d.* Et Comiti Giffard 40*s.* Et monachis de Tama et de Bruiria 43*s.* 6*d.*

Et monachis de Nedehala 10*s.* Et Archiepiscopo Cantuariae 30*s.* et eidem 10*s.* 6*d.* in Safford. Et Willelmo fratri Regis 16*s.* 6*d.*

Et militibus de Templo 70*s.* Et fratribus Hospitalis 6*s.* 3*d.* Et Johanni Marescallo 23*s.* 6*d.* Et monachis de Becco 17*s.*

Et Willelmo de Bello campo 10*s.* Et Abbati de Bello 10*s.* Et Abbatissae de Godesto 20*s.* Et canonicis de Meretona 5*s.* 9*d.*

Et baronibus de Warengefordia £29 5*s.* Et Henrico de Oilli £8 14*s.* Et Henrico filio Geroldi 66*s.*

Et Ricardo filio Geroldi 3*s.* Et Ricardo de Humet 36*s.* 6*d.* Et Ricardo de Canvilla 48*s.* Et eidem in Stantona.

Et monachis de Rading, et militibus de Templo, et Rogero de Sanford 52*s.* Et vicecomiti 53*s.* et Willelmo filio Baldewini 10*s.* 6*d.*

Et in elemosina Regis Wachefeud 4*s.* 6*d.* Et Willelmo Viand' 3*s.* Et episcopo de Sagio 14*s.* Et episcopo Lincolniae £28 4*d.*

Et Abbati de Westmonasterio 12*s.* Et episcopo de Eli 10*s.* Et Radulfo de Hastingis 5*s.* Et Radulfo Purcel 5*s.*

Summa £129 13*s.* 4*d.*

Et habet de superplusagio 38*s.* 4*d.* qui computantur ei in firma comitatus.

Idem vicecomes reddit compotum de £20 de burgo de Oxeneforde. In soltis per breve Regis Radulfo Waspail £18 2*s.* Et in perdona per breve Regis militibus de Templo 18*s.* 6*d.* Et debet 20*s.* 6*d.* [*Pipe Roll Society*, vol. v (1885).]

A.D. 1164. CONSTITUTIONS OF CLARENDON.

The following text of the Constitutions of Clarendon gives probably the exact terms in which they were reported to the king and confirmed by the bishops and barons. The list of the barons is especially valuable as showing the composition of the 'Commune Concilium regni' at the period, and may be compared with the corresponding lists attached to the confirmations of the great Charter of John. Besides the importance of the Constitutions themselves in their bearing on the relations of Church and State in England, the following points of consequence, more immediately touching Constitutional History and the growth of our legal system, are worthy of attention. 1. The reservation to the Curia Regis of questions of Presentation and Advowson for the decision of which the Assize of *Darrein presentment* was issued, the only vestiges of which are preserved in Glanvill. 2. The maintenance of the relations between the ecclesiastical and civil jurisdictions which had been introduced into England by William the Conqueror.[1] Under the Anglo-Saxon system, in which the bishop and archdeacon sat in the shire-moot and hundred-moot, all offences touching the clergy, except those of a purely spiritual character, which were treated of in special courts and councils, were decided according to the law of the land, which provided abundantly for such cases: nor until the canon law began to be studied, which was after the publication of the *Panormia* of Ivo of Chartres, was much incon-

[1] See, however, F. W. Maitland's article on 'Henry II and Criminous Clerks' in his *Roman Canon Law in the Church of England* (1898); Henry II did not claim the right of trying criminous clerks, but only of punishing them after conviction in the ecclesiastical court.

venience found to result from conflicting jurisdictions. The Decretum of Gratian appeared towards the beginning of Stephen's reign, and appeals to Rome multiplied as the influence of the Italian lawyers increased. The necessity for the restrictive action of the Constitutions of Clarendon will be learned from the events which led up to them : although these events are to be ascribed no doubt largely to the exaggerated influence of the canon law, it ought not to be forgotten that the source of the evil was in the Conqueror's measure of division. 3. The notice of the use of a jury (Art. 6), and of the principle of recognition by twelve lawful men in case of a dispute as to the tenure of an estate alleged to be held in franc-almoign (Art. 9), is the earliest case of such mention in anything like statute law. It is not, however, to be supposed that this is the act of the institution of such recognitions, of which probably many earlier instances might be found.[1] 4. The direction that elections to the bishoprics and abbacies shall take place in the royal chapel, subject to the approval of the king and his council, is in conformity with the usage of Henry I, and with the practice of the West-Saxon kings of England. But the right of election had long been claimed for the clergy of the church whose vacancy was to be supplied. As early as the eighth century the letters of Alcuin give proof that such liberty was possessed by the clergy of York, and the subsequent restriction was probably owing to the example set by the emperors in France and Germany. Generally the Anglo-Saxon bishops were appointed by the king and witan, but there are traces, from the date of Theodore to the Conquest, of free elections occasionally allowed, and constantly claimed. It was the Peace of Anselm and Henry I that gave the king an

[1] See on this subject the remarks of Pollock and Maitland, *History of English Law*, Bk. I. ch. 5. The practice of ordering recognitions by jury to ascertain the rights of the crown, or of individuals specially favoured by the crown, is in England as old as the Domesday Survey. Beyond doubt it was derived from Normandy and is ultimately Frankish in origin.

absolute and legal influence in this matter. 5. The restriction of the liberty of 'rustics' or 'natives' to take holy orders, is not to be understood as intended to depress a class of people whom in other matters the king was anxious to raise, but as a security to the landowners that they should not lose the services of their villeins. The villeins were in fact labourers whose wages were paid in land, the tenure of which, having become settled to villenage, could not be altered or readjusted so as to idemnify the lord for the loss of the labour consequent on the ordination of his villein. It is possible also, considering the similar article of the Assize of Clarendon (below, p. 172), that orders or religious vows were sometimes used by villeins as an expedient for escaping from the jurisdiction of their lords, and thus increased the number of disreputable clerks whose misconduct necessitated Henry's measure of reform.

After the murder of Thomas Becket, the king purchased absolution from the Holy See by abjuring the obnoxious clauses of the Constitutions of Clarendon (at Avranches, May 21, 1172). He thus abandoned the claim to try or to punish criminous clerks; and 'benefit of clergy' continued without diminution from his time to that of Henry VII. Only for breaches of the forest law were clerks amenable to royal jurisdiction. Further, the right of carrying appeals in ecclesiastical causes to Rome was admitted without reservation. On the other hand, the king retained the jurisdiction in suits of patronage and over all church-lands which were held by some other tenure than frank-almoign; the method of election to vacant prelacies which was laid down in the Constitutions (§ xii) remained in use till 1214.

Anno ab Incarnatione Domini M°C°LX°IV°, papatus Alexandri anno IV^to^, illustrissimi regis Anglorum Henrici secundi anno decimo, in praesentia ejusdem regis, facta est ista recordatio vel recognitio cujusdam partis consuetudinum et libertatum et dignitatum antecessorum suorum, videlicet regis Henrici avi sui, et aliorum quae observari et teneri debent in regno. Et propter dissensiones et discordias quae emerserant

inter clerum et Justitias domini regis et barones regni de consuetudinibus et dignitatibus, facta est istà recognitio coram archiepiscopis et episcopis et clero et comitibus et baronibus et proceribus regni. Et easdem consuetudines recognitas per archiepiscopos et episcopos et comites et barones et per nobiliores et antiquiores regni, Thomas Cantuariensis archiepiscopus, et Rogerus Eboracensis archiepiscopus, et Gilebertus Londoniensis episcopus, et Henricus Wintoniensis episcopus, et Nigellus Eliensis episcopus, et Willelmus Norwicensis episcopus, et Robertus Lincolniensis episcopus, et Hilarius Cicestrensis episcopus, et Jocelinus Sarisberiensis episcopus. et Ricardus Cestrensis episcopus, et Bartholomeus Exoniensis episcopus, et Robertus Herefordensis episcopus, et David Menevensis episcopus, et Rogerus Wigornensis electus, concesserunt, et in verbo veritatis viva voce firmiter promiserunt tenendas et observandas, domino regi et haeredibus suis, bona fide et absque malo ingenio, praesentibus istis: Roberto comite Leghecestriae, Reginaldo comite Cornubiae, Conano comite Britanniae, Johanne comite de Augo, Rogerio comite de Clara, comite Gaufrido de Mandevilla, Hugone comite Cestriae, Willelmo comite de Arundel, comite Patricio, Willelmo comite de Ferrariis, Ricardo de Luci, Reginaldo de Sancto Walerico, Rogero Bigot, Reginaldo de Warennia, Richerio de Aquila, Willelmo de Braiosa, Ricardo de Camvilla, Nigello de Moubrai, Simone de Bello Campo, Humfrido de Boun, Matthaeo de Herefordia, Waltero de Meduana, Manassero Biseth dapifero, Willelmo Malet, Willelmo de Curci, Roberto de Dunestavilla, Jocelino de Baillolio, Willelmo de Lanvalis, Willelmo de Caisneto, Gaufrido de Ver, Willelmo de Hastinges, Hugone de Morevilla, Alano de Nevilla, Simone filio Petri, Willelmo Malduit camerario, Johanne Malduit, Johanne Mariscallo, Petro de Mara, et multis aliis proceribus et nobilibus regni, tam clericis quam laicis.

Consuetudinum vero et dignitatum regni recognitarum quaedam pars praesenti scripto continetur. Cujus partis capitula haec sunt;

Cap. i. De advocatione et praesentatione ecclesiarum si controversia emerserit inter laicos, vel inter laicos et clericos, vel inter clericos, in curia domini regis tractetur vel terminetur.

Cap. ii. Ecclesiae de feudo domini regis non possunt in perpetuum dari absque assensu et concessione ipsius.

Cap. iii. Clerici retati et accusati de quacunque re, summoniti

a Justitia regis venient in curiam ipsius, responsuri ibidem de hoc unde videbitur curiae regis quod ibidem sit respondendum; et in curia ecclesiastica, unde videbitur quod ibidem sit respondendum; ita quod Justitia regis mittet in curiam sanctae ecclesiae ad videndum qua ratione res ibi tractabitur. Et si clericus convictus vel confessus fuerit, non debet de cetero eum ecclesia tueri.

Cap. iv. Archiepiscopis, episcopis, et personis regni, non licet exire de regno absque licentia domini regis. Et si exierint, si domino regi placuerit, assecurabunt, quod nec in eundo, nec in moram faciendo, nec in redeundo, perquirent malum vel damnum regi vel regno.

Cap. v. Excommunicati non debent dare vadium ad remanens, nec praestare juramentum, sed tantum vadium et plegium standi judicio ecclesiae ut absolvantur.

Cap. vi. Laici non debent accusari nisi per certos et legales accusatores et testes in praesentia episcopi, ita quod archidiaconus non perdat jus suum, nec quicquam quod inde habere debeat. Et si tales fuerint qui culpantur, quod non velit vel non audeat aliquis eos accusare, vicecomes requisitus ab episcopo faciet jurare duodecim legales homines de visneto, seu de villa, coram episcopo, quod inde veritatem secundum conscientiam suam manifestabunt.

Cap. vii. Nullus qui de rege teneat in capite, nec aliquis dominicorum ministrorum ejus, excommunicetur, nec terrae alicujus eorum sub interdicto ponantur, nisi prius dominus rex, si in terra fuerit, conveniatur, vel Justitia ejus, si fuerit extra regnum, ut rectum de ipso faciat: et ita ut quod pertinebit ad curiam regiam ibidem terminetur, et de eo quod spectabit ad ecclesiasticam curiam, ad eandem mittatur ut ibidem tractetur.

Cap. viii. De appellationibus si emerserint, ab archidiacono debent procedere ad episcopum ab episcopo ad archiepiscopum. Et si archiepiscopus defuerit in justitia exhibenda ad dominum regem perveniendum est postremo, ut praecepto ipsius in curia archiepiscopi controversia terminetur, ita quod non debeat ulterius procedere absque assensu domini regis.

Cap. ix. Si calumnia emerserit inter clericum et laicum, vel inter laicum et clericum, de ullo tenemento quod clericus attrahere velit ad elemosinam, laicus vero ad laicum feudum, recognitione duodecim legalium hominum, per capitalis Justitiae regis considerationem terminabitur, utrum tene-

mentum sit pertinens ad elemosinam sive ad feudum laicum, coram ipso Justitia regis. Et si recognitum fuerit ad elemosinam pertinere, placitum erit in curia ecclesiastica, si vero ad laicum feudum, nisi ambo de eodem episcopo vel barone advocaverint, erit placitum in curia regia. Sed si uterque advocaverit de feudo illo eundem episcopum vel baronem, erit placitum in curia ipsius ; ita quod propter factam recognitionem saisinam non amittat, qui prior saisitus fuerat, donec per placitum dirationatum fuerit.

Cap. x. Qui de civitate, vel castello, vel burgo, vel dominico manerio domini regis fuerit, si ab archidiacono vel episcopo super aliquo delicto citatus fuerit, unde debeat eisdem respondere et ad citationes eorum satisfacere noluerit, bene licet eum sub interdicto ponere, sed non debet excommunicari priusquam capitalis minister domini regis villae illius conveniatur, ut justiciet eum ad satisfactionem venire. Et si minister regis inde defecerit, ipse erit in misericordia domini regis, et exinde poterit episcopus ipsum accusatum ecclesiastica justitia coercere.

Cap. xi. Archiepiscopi, episcopi, et universae personae regni, qui de rege tenent in capite, et habent possessiones suas de domino rege sicut baroniam, et inde respondent Justitiis et ministris regis, et sequuntur et faciunt omnes rectitudines regias et consuetudines, et sicut barones ceteri, debent interesse judiciis curiae domini regis cum baronibus, usque perveniatur in judicio ad diminutionem membrorum vel mortem.

Cap. xii. Cum vacaverit archiepiscopatus, vel episcopatus, vel abbatia, vel prioratus de dominio regis, debet esse in manu ipsius, et inde percipiet omnes redditus et exitus sicut dominicos. Et cum ventum fuerit ad consulendum ecclesiae, debet dominus rex mandare potiores personas ecclesiae, et in capella ipsius domini regis debet fieri electio assensu domini regis et consilio personarum regni, quas ad hoc faciendum vocaverit. Et ibidem faciet electus homagium et fidelitatem domino regi sicut ligio domino, de vita sua et de membris et de honore suo terreno, salvo ordine suo, priusquam sit consecratus.

Cap. xiii. Si quisquam de proceribus regni defortiaverit archiepiscopo, vel episcopo, vel archidiacono, de se vel de suis justitiam exhibere, dominus rex debet eos justiciare. Et si forte aliquis defortiaverit domino regi rectitudinem suam, archiepiscopi et episcopi et archidiaconi debent eum justiciare ut domino regi satisfaciat.

Cap. xiv. Catalla eorum qui sunt in forisfacto regis non detineat ecclesia vel coemiterium contra justitiam regis, quia ipsius regis sunt, sive in ecclesiis sive extra fuerint inventa.

Cap. xv. Placita de debitis quae fide interposita debentur, vel absque interpositione fidei, sint in justitia regis.

Cap. xvi. Filii rusticorum non debent ordinari absque assensu domini de cujus terra nati dignoscuntur.

Facta est autem praedictarum consuetudinum et dignitatum regiarum recordatio ab archiepiscopis, episcopis, comitibus, baronibus, nobilioribus, et antiquioribus regni, apud Clarendonam quarto die ante Purificationem Beatae Mariae Virginis, domino Henrico cum patre suo domino rege ibidem praesente. Sunt autem et aliae multae et magnae consuetudines et dignitates sanctae matris ecclesiae et domini regis et baronum regni, quae in hoc scripto non continentur. Quae salvae sint sanctae ecclesiae et domino regi et haeredibus suis et baronibus regni, et in perpetuum inviolabiliter observentur. [Robertson, *Materials for the History of Thomas Becket*, v. 71–9; Gervase of Canterbury, i. 178–80.]

A.D. 1166. Assize of Clarendon.

This Assize was issued by the king early in 1166, after the Council of Oxford, in which the heretics mentioned in the 21st Article were condemned. It is a document of the greatest importance to our legal history, and must be regarded as introducing changes into the administration of justice which were to lead the way to self-government at no distant time. (I.) It is clear from the first article that a commission of itinerant justices was to visit the shires, and that to them and the sheriffs the several juries of the shire and the hundred were to present notorious or reputed offenders. Henry II has been regarded as the inventor of the system of itinerant judges, but the examination of the Great Roll of the Pipe of 31 Henry I shows that during his reign the practice was observed both for financial and judicial purposes. These journeys were the substitute under the Norman kings for the progresses of the earlier sovereigns, who, whilst moving from one of their estates to another, heard the complaints of defect of justice in the

lower courts. The annual courts of William the Conqueror, who wore his crown and heard causes at Christmas, Easter, and Pentecost, at Gloucester, Winchester, and Westminster, a custom occasionally observed by William Rufus and Henry I, only partially answered the same purpose; and for these towards the end of Henry's reign a visitation of the Curia Regis itself seems to have been substituted. Everything of the kind ceased under Stephen: and in the earlier years of Henry II the visitation was apparently made only by either the Great Justiciar or some other great officer of the royal household, as the Constable or the Chancellor. On this particular occasion the visitation was carried out by the Great Justiciar Richard de Luci, and Geoffrey Mandeville Earl of Essex; but in 1168 a deputation of four barons of the Exchequer traversed the country as itinerant judges and collectors of revenue, and in 1173 the country was divided for financial purposes into six circuits. Several modifications of the numbers and circuits were introduced during Henry's reign, and the plan was followed up under Richard and John, until the anarchy which followed the interdict. By Magna Carta the king undertook to send itinerant commissions four times a year (Art. 18), to take assizes of Mort-dancester, Novel Disseisin, and Darrein Presentment; but this was altered in 1217 to one annual visitation for this purpose. Whether the judges so commissioned were competent to transact other business is not clear, but it seems that from this period the *Iter* of the justices for general business was septennial, and not annual.[1] And these septennial *iters* were continued until the reign of Edward I; nor even then entirely extinguished by the appointment of justices of assize. The subject is an intricate one, and only in its earlier stages connected with constitutional law; but it may be observed

[1] The statement that the general eyre ought only to be held once in seven years first meets us in the year 1261 (*Annales Wigornenses*, ed. Luard, p. 446). It is repeated by Britton.

that much of the confusion that prevails concerning it is to be traced to the fact that attention has not been paid to the variety of commissions under which such provincial justice was executed. From the first we have to distinguish between financial and judicial iters, then between commissions for taking the assize and for trying criminals, and so on until we come to the state of things described by Blackstone, under which the judges at assizes sit in five capacities ; as justices :—(1) of the Peace, (2) of Oyer and Terminer, (3) of Gaol Delivery, (4) of Assize, (5) of Nisi Prius. (II.) The adoption of presentment and ordeal had the effect of abolishing the practice of compurgation in the shire-moots, which continued to be used in the boroughs whose charters exempted them from the jurisdiction of these courts. The ordeal in these circumstances being a resource following the verdict of a jury acquainted with the fact, could only be applied to those who were to all intents and purposes proved to be guilty. The abolition of the ordeal by the Lateran Council in 1216, and the impossibility of securing perfect justice by the machinery of the grand jury, led the way to the usage of a second or petty jury, to traverse the decisions of the former.[1] (III.) The directions that all qualified persons shall attend the county court to serve on these juries, and that no franchise is to exclude the sheriffs from preparing for these visitations and enforcing the frank-pledges, are an important attempt to limit the exercise of feudal courts of justice and feudal privilege. (IV.) The traces of Anglo-Saxon custom in the treatment of strangers, waifs, and wanderers, and the responsibility of their entertainers, may be regarded as a proof that the country was still in an unsettled state, and that the old ends had to be secured by the old means. (V.) The 20th article has relation to the subject of the last article of the Constitutions of Clarendon : and the 21st is of great importance touching the treatment of heresy

[1] See on this subject Pollock and Maitland, *History of English Law*, Bk. II. c. 9, § 4.

under Henry II, which was certainly not so severe as that of offences against the forest laws.[1]

Incipit Assisa de Clarenduna facta a rege Henrico, scilicet secundo, de assensu archiepiscoporum, episcoporum, abbatum, comitum, baronum, totius Angliae.

1. Inprimis statuit praedictus rex Henricus de consilio omnium baronum suorum, pro pace servanda et justitia tenenda, quod per singulos comitatus inquiratur, et per singulos hundredos, per xii. legaliores homines de hundredo, et per iv. legaliores homines de qualibet villata, per sacramentum quod illi verum dicent: si in hundredo suo vel villata sua sit aliquis homo qui sit rettatus vel publicatus quod ipse sit robator vel murdrator vel latro vel aliquis (qui fuerit receptor robatorum vel murdratorum vel latronum) postquam dominus rex fuit rex. Et hoc inquirant Justitiae coram se, et vicecomites coram se.

2. Et (qui invenietur per sacramentum praedictorum) rettatus vel publicatus quod fuerit robator vel murdrator vel latro vel receptor eorum, postquam dominus rex fuit rex, capiatur et eat ad judicium aquae, et juret (quod ipse non fuit robator vel murdrator vel latro vel receptor eorum postquam dominus rex fuit rex, de valentia v. solidorum quod sciat.

3. Et si dominus ejus qui captus fuerit vel dapifer ejus vel homines ejus requisierint eum per plegium infra tertium diem postquam captus fuerit, replegiatur ipse et catalla ejus donec ipse faciat legem suam.

4. Et quando robator vel murdrator vel latro vel receptores eorum capti fuerint per praedictum sacramentum, si Justitiae non fuerint tam cito venturi in illum comitatum (ubi capti fuerint,) vicecomites mandent propinquiori Justitiae per aliquem intelligentem hominem, quod tales homines ceperint; et Justitiae remandabunt vicecomitibus ubi voluerint quod illi ducantur ante illos: et vicecomites illos ducant ante Justitias; et cum illis ducant de hundredo et de villata ubi capti fuerint, duos legales homines ad portandum recordationem comitatus et hundredi, quare capti fuerint, et ibi (ante Justitias) facient legem suam.

[1] See the article of F. W. Maitland, 'The Deacon and the Jewess,' in his *Collected Papers*, i. 385; also Pollock and Maitland, *History of English Law*, Bk. II. c. 8, § 4.

5. Et de illis (qui capti fuerint per praedictum sacramentum hujus Assisae,) nullus habeat curiam vel justitiam nec catalla, nisi dominus rex in curia sua coram Justitiis ejus, et dominus rex habebit omnia catalla eorum. | De illis vero (qui capti fuerint aliter quam per hoc sacramentum,) sit sicut esse solet et debet.

6. Et vicecomites (qui eos ceperint) ducant eos ante Justitiam sine alia summonitione quam inde habebant. | Et cum robatores vel murdratores vel latrones et receptores eorum, (qui capti fuerint per sacramentum vel aliter,) tradantur vicecomitibus, et ipsi recipiant eos statim sine dilatione.

7. Et in singulis comitatibus (ubi non sunt gaiolae,) fiant in burgo, vel aliquo castello regis, de denariis regis et bosco ejus (si prope fuerit,) vel de alio bosco propinquo,) per visum servientium regis, | ad hoc ut vicecomites in illis possint illos (qui capti fuerint per ministros) (qui hoc facere solent) et per servientes suos) custodire.

8. Vult etiam dominus rex quod omnes veniant ad comitatus ad hoc sacramentum faciendum, ita quod nullus remaneat (pro libertate aliqua quam habeat,) vel curia vel soca (quam habuerit,) quin veniant ad hoc sacramentum faciendum.

9. Et non sit aliquis infra castellum vel extra castellum, nec etiam in honore de Walingeford, qui vetet vicecomites intrare in curiam | vel terram suam | ad videndos francos plegios, et quod omnes sint sub plegiis : | et ante vicecomites mittantur sub libero plegio.

10. Et in civitatibus | vel burgis | nullus habeat homines vel recipiat | in domo sua | vel terra sua | vel soca sua, | quos non in manu capiat quod eos habebit | coram Justitia si requisiti fuerint, | vel sint sub francoplegio.

11. Et nulli sint in civitate | vel burgo | vel castello | vel extra, | nec in honore etiam de Walingeford, | qui vetent vicecomites intrare in terram suam | vel socam suam, | ad capiendum illos (qui rettati fuerint vel publicati quod sint robatores vel murdratores vel latrones vel receptores eorum,) vel utlagati | vel rettati de foresta ; | sed praecipit quod juvent illos ad capiendum eos.

12. Et si aliquis fuerit captus (qui fuerit saisiatus de roberia vel latrocinio, | si ipse fuerit diffamatus | et habeat malum testimonium de publicamento, | et non habeat warantum, | non habeat legem. | Et si non fuerit publicatus, pro saisina quam habet, eat ad aquam.

13. Et si aliquis fuerit recognoscens coram legalibus hominibus vel hundredis de roberia vel murdro vel latrocinio vel de receptione eorum, et postea negare voluerit, non habeat legem.

14. Vult etiam dominus rex quod illi (qui facient legem suam) et mundi erunt per legem, si ipsi fuerint de pessimo testimonio, et publice et turpiter diffamati testimonio multorum et legalium hominum, foras jurent terras regis, ita quod (infra viii. dies) mare transibunt, nisi aura eos detinuerit; et cum prima aura quam habebunt postea mare transibunt, et ultra in Angliam non reverfentur nisi per misericordiam domini regis: et ibi sint utlagati; et si redierint capiantur, sicut utlagati.

15. Et prohibet dominus rex ne aliquis vaivus, id est vagus vel ignotus, hospitetur alicubi nisi in burgo, et ibi non hospitetur nisi una nocte, nisi ibi infirmetur, vel equus ejus, ita quod monstrare possit monstrabile essonium.

16. Et si ibi fuerit plusquam una nocte, capiatur ille et teneatur donec dominus ejus venerit ad eum plegiandum, vel donec ipse habeat salvos plegios; et ille similiter capiatur (qui hospitatus fuerit.)

17. Et si aliquis vicecomes mandaverit alii vicecomiti quod homines fugerint de comitatu suo, in alium comitatum pro roberia vel pro murdro vel latrocinio vel receptione eorum, vel pro utlagia vel pro retta forestae regis, ille capiat eos: et etiam si per se vel per alios sciat quod tales homines fugerint in comitatum suum, capiat eos et custodiat donec de eis habeat salvos plegios.

18. Et omnes vicecomites faciant inbreviari omnes fugitivos, qui fugerint de suis comitatibus; et hoc faciant coram comitatibus, et illorum nomina scripta portabunt ante Justitias cum primo ad illos venerint, ut illi quaerantur per totam Angliam, et eorum catalla capiantur ad opus regis.

19. Et vult dominus rex quod ex quo vicecomites susceperint summonitiones Justitiarum errantium, ut ipsi (cum comitatibus suis) sint ante illos, ipsi congregabunt comitatus suos et inquirent omnes qui de novo venerint in suos comitatus post hanc assisam; et illos mittent per plegios, quod erunt coram Justitias, vel illos custodient, donec Justitiae ad eos venerint, et tunc habebunt coram Justitias.

20. Prohibet etiam dominus rex ne monachi vel canonici vel aliqua domus religionum recipiant aliquem de populo minuto in monachum vel canonicum vel fratrem, donec

sciatur de quali testimonio ipsè fuerit, nisi ipse fuerit infirmus ad mortem.

21. Prohibet etiam dominus rex, quod nullus in tota Anglia receptet in terra sua vel soca sua, vel domo sub se, aliquem de secta illorum renegatorum qui excommunicati et signati fuerunt apud Oxeneforde. Et si quis eos receperit, ipse erit in misericordia domini regis; et domus, in qua illi fuerint, portetur extra villam et comburatur. Et hoc jurabit unusquisque vicecomes quod hoc tenebit, et hoc jurare faciet omnes ministros suos, et dapiferos baronum, et omnes milites et franco-tenentes de comitatibus.

22. Et vult dominus rex quod haec assisa teneatur in regno suo quamdiu ei placuerit.—(*MS. Bodl. Rawlinson*, C. 641: a copy almost as old is given in the Royal MS. of Hoveden, and printed in the Rolls edition of that chronicler, ii. 248.)

A. D. 1166. Cartel declaratory of Liability to Scutage.

The following letter is one of a large number of answers to an inquiry made by Henry II in or about the year 1166, as to the number of knights who had been enfeoffed by his tenants in chief. The inquiry was instituted by a writ addressed to the tenants in chief of each shire collectively, which was read to them by the sheriffs in the shire-courts. The writ is not extant, but its tenor and object can be inferred from the answers. The king's object was to increase the service due from those who had enfeoffed more knights than they were bound to produce under their original grants from the crown. The inquiry involved answers to three questions: (1) the number of knights enfeoffed before 1135, (2) the number enfeoffed since that date, (3) the number for which the demesne of the baron remained liable to the king. The result of the inquiries appeared in 1168, when the king levied a scutage *pur fille marier* at the rate of 20*s.* on each fee. [See Round, *Feudal England*, pp. 236 ff.]

Karissimo domino suo ligio Henrico Regi Anglorum &c. suus homo ligius Robertus de Brinton salutem et fidele servitium.

Mihi et aliis comparibus meis per litteras vestras innotuit, ut, per fidem et ligantiam quam vobis debemus, per breve nostrum pendens extra sigillum, mandaremus quot milites haberemus de veteri feodamento de tempore Henrici regis avi vestri, et quot milites haberemus de novo feodamento post tempus regis Henrici avi vestri, et quot milites habeamus super dominium nostrum. Inde est quod vobis, ut domino meo karissimo, mando quod de veteri feodamento nullum militem habeo, praeter feodum unius quem mihi cum quadam liberali muliere, nomine Eva, quae modo est haeres, per servitium unius militis dedistis, faciendo servitium ad custum vestrum. De novo autem feodamento nullum habeo militem vel super dominium meum. Et vobis quidem et filio vestro hominium et ligantiam feci. [*Red Book of the Exchequer*, ed. Hall, i. 277.]

A.D. 1170. INQUEST OF SHERIFFS.

When Henry II returned from the Continent in the spring of 1170, after an absence of four years, he was received with loud complaints of the exactions of the sheriffs and bailiffs, and of the oppressiveness of their jurisdiction. The country had been scarcely prepared for the severe way in which the Assize of Clarendon was carried out, and the payment of the aid on the marriage of the king's eldest daughter had been felt as a heavy tax; but it is probable that there had been some misconduct among the royal officers themselves. For Henry, who was at this moment anxiously contriving the recognition and coronation of his eldest son, it was very important to keep the people contented. Accordingly, shortly after Easter, in a great council at London, he issued the following commission to a body of barons errant, and removed the sheriffs of nearly all the counties from their places.

I. He seems to have taken advantage of the opportunity afforded by the complaints of the people to enter upon a general investigation of the provincial administration of justice, not merely in the county and hundred courts and royal demesne, but in the franchises of the barons, lay and

ecclesiastical : and further to have inquired narrowly into the confiscations of goods of the persons who had fled from justice under the Assize of Clarendon, showing some suspicion as to the honesty of the sheriffs both in the examination of charges and in the disposition of the forfeitures. He seems to have thought that the aid for the marriage of his daughter, which we learn from the Pipe Rolls was a very large one, afforded too great a temptation to the sheriffs. The further inquiry whether these officers had restored anything, as hush-money, to those who had complained to the king, with a view of stifling their complaints, is very significant. The examination into the administration of the forests completed the survey of the whole system of jurisdiction existing in the country ; and the report, if it ever was made, must have been a record of the most interesting kind conceivable. It is probable that the result was on the whole satisfactory, as the historian tells us that no further proceedings were taken against the sheriffs.

II. The sheriffs removed on this occasion from their offices were most of them local magnates, whose chances of oppression and whose inclination towards a feudal administration of justice were too great. In their place Henry instituted officers of the Exchequer, less closely connected with the counties by property, and more amenable to royal influence as well as more skilled administrators—another step towards the concentration of the provincial jurisdiction under the Curia Regis.

In primis exigent barones [errantes] vadium et plegium ab omnibus vicecomitibus qui fuerunt vicecomites postquam dominus rex novissime transfretavit in Normanniam, et ab omnibus qui fuerunt post terminum illum baillivi vel ministri eorum, quamcunque baillivam de eis habuerunt ; et ab omnibus illis qui post terminum illum tenuerunt hundredos baronum quos ipsi habent in comitatu, sive eos tenuerint ad firmam, sive in custodia ;—quod erunt coram domino rege die quem ipsi eis constituerint ad faciendum rectum et adreciandum ei et hominibus suis quod adreciare debuerint. Et si vicecomites ante eos propter infirmitatem venire non possunt, mittant

(loco suo) qui pro eis respondeant, et [illi] dent vadium et plegium sufficientem pro vicecomitibus et pro se ipsis, quod coram domino rege facient hoc quod vicecomites facere debent ad diem constitutum.

Postea capient sacramentum ab omnibus baronibus et militibus et liberis hominibus de comitatu, quod verum dicent de hoc [quod] ab eis inquiretur ex parte domini regis; et quod non celabunt veritatem pro amore alicujus vel odio vel pretio vel praemio vel timore vel [pro aliqua] promissione vel pro ulla re.

Hic est modus inquisitionis:—(I.) Inquiratur de vicecomitibus, inprimis, et baillivis eorum, quid vel quantum acceperint de singulis hundredis, et de singulis villatis, et de singulis hominibus, postquam dominus rex transfretavit [in Normanniam], unde terra vel homines gravati sint; et quid acceperint per judicium comitatus vel hundredi, et quid sine judicio. Et quid inquisierint captum esse per judicium scribatur separatim, et quid sine judicio scribatur separatim; et de omnibus prisis inquirant causam et testimonium.

[II. Similiter inquiratur quot et quas terras vicecomites vel baillivi eorum emerint vel invadiaverint.]

III. Similiter inquiratur de archiepiscopis, episcopis, abbatibus, comitibus, baronibus, [vavasoribus, militibus, civibus, burgensibus,] et eorum senescallis et ministris, quid vel quantum acceperint per terras suas post terminum praedictum, de singulis hundredis suis et de singulis villatis suis, et de singulis hominibus suis, per judicium vel sine judicio; et omnes prisas illas scribant separatim et causas et occasiones earum.

IV. Et similiter inquirant de hominibus illis qui post terminum illum habuerunt alias baillivas de domino rege in custodia, sive de [archiepiscopatu, sive de] episcopatu, sive de abbatia, sive de baronia, sive de honore aliquo vel eschaeta [quid et quantum in baillia illa adquisierint].

V. Et similiter inquiratur de baillivis regis qui per terram suam erraverunt, pro negotiis regis faciendis, quid eis datum sit; et quid inde inquisierint scribant.

VI. Item de catallis fugitivorum pro Assisa de Clarendune et de catallis eorum qui per assisam illam perierunt, inquiratur quid actum sit, et quid inde exierit de singulis hundredis et singulis villatis, et diligenter et intente scribatur. Et similiter inquiratur si aliquis in assisa illa injuste retatus fuerit, pro

praemio vel promissione vel odio vel alio injusto modo; et an aliquis de rectatis relaxatus fuerit vel reus pro praemio vel promissione vel amore, et quis inde praemium acceperit, et hoc similiter scribatur.

VII. Et inquiratur de auxilio ad maritandam filiam regis, quid inde exierit de singulis hundredis et singulis villatis [et de singulis hominibus], sive in redditis sive in perdonis, et cui illud traditum fuerit et liberatum.

VIII. Et inquiratur quid vel quantum acceperint forestarii vel baillivi vel ministri eorum, post terminum praedictum, in bailliis suis, quocunque modo illud ceperint vel quacunque occasione; et si quid perdonaverint de rectis regis pro praemio vel promissione vel pro amicitia aliqua. Et de forisfactis forestarum; [et] de hiis qui [in] forestis suis forisfecerunt, et cervis et bisiis et aliis bestiis salvagnis; et quod inde inquisierint, scribant diligenter. Et si forestarii vel baillivi eorum aliquem ceperint vel attachiaverint per vadium et plegium, vel retaverint, et postea sine judicio per se relaxaverint, qui haec fecerint inquirantur et inbrevientur.

IX. Et omnes (qui retati fuerint de aliquo recto) ponantur per vadium et plegium quod sint coram domino regedie (quem eis ponent,) et quod rectum facient, et quod adreciabunt ei et hominibus suis quod adreciare debuerint, et (quibus plegii desunt,) custodiantur.

X. Et inquiratur si vicecomites vel quicunque baillivi [eorum, vel domini villarum vel baillivi eorum,] aliquid reddiderint de hiis quae ceperint, vel si pacem aliquam fecerint cum hominibus postquam audierunt adventum domini regis, pro disturbare ne querimonia inde ad dominum regem [vel justitias] venerit.

XI. Et de amerciatis inquiratur, si aliquis relaxatus fuerit pro praemio vel amore de hoc (quod fuerit primo amerciatus,) et per quem hoc factum fuerit.

[XII. Et similiter inquiratur per omnes episcopatus quid et quantum et qua de causa archidiaconi vel decani injuste et sine judicio ceperint, et hoc totum scribatur.]

XIII. Inquiratur qui sunt (qui debent domino regi homagium et non fecerunt) neque illi neque filio suo, et inbrevientur.

XIV. De dominiis domini regis inquiratur si curiae sint clausae de fossatis et hais, et si sint ibi grangiae et bovariae et bercheriae, et aliae domus et instauramenta sicut dominus rex praecepit antequam transfretaret.

XV. Et postquam inquisiti fuerint, | vicecomites mei et ministri adhibeantur ad cetera negotia mea | et jurent | quod legaliter intendent inquisitioni | faciendae per terras baronum. —(*MS. Bodl. Rawlinson*, C. 641 ; and Gervase of Canterbury, i. 217 (from whom are supplied the words and passages enclosed in square brackets).)

A. D. 1176. Assize of Northampton.

The Assize of Northampton is a re-issue and expansion of the Assize of Clarendon issued in 1166, drawn up in the form of instructions to the six committees of judges who were to visit the circuits now marked out. The earlier articles of this Assize correspond with those of Clarendon, but are more severe in the punishment prescribed, and place less power in the hands of the sheriffs. The later articles, which are new and are to be carefully compared with the Great Charter of John, are of leading importance as touching the tenure of lands, reliefs, dower, and similar points. The Assize has considerable significance as a political measure also ; for it is the first judicial act of importance since the quelling of the rebellion of 1173 : and in this aspect deserves examination in such points as the exaction of the oaths of fealty from all classes, freeholders and villeins alike ; the complete destruction of the castles which had been held against the king ; the present custody of all the castles ; and the registration of all fugitives and outlaws. The fifth section is noteworthy for the reference to the Assize of Novel Disseisin—an innovation of capital importance in the history of English land-law, by which for the first time protection was given to possession as distinct from ownership. The significance of the new principle involved in the ordinance has been brilliantly explained by Pollock and Maitland in their *History of English Law* (Bk. II. c. iv. § 2). The Assize is mentioned in the Pipe Rolls as early as the twelfth year of Henry II. It was possibly promulgated at the Great Council of Clarendon early in 1166.

Trans. p. 52.

Hae sunt Assisae factae apud Clarendune, et postea recordatae apud Northamtoniam.

Si quis retatus fuerit coram justitiariis domini regis de murdro vel latrocinio, vel roberia, vel receptatione hominum talia facientium, vel de falsoneria vel iniqua combustione, per sacramentum duodecim militum de hundredo, et si milites non adfuerint, per sacramentum duodecim liberorum legalium hominum, et per sacramentum quatuor hominum de unaquaque villa hundredi, eat ad judicium aquae, et si perierit alterum pedem amittat. Et apud Northamtoniam additum est pro rigore justitiae quod dexterum similiter pugnum cum pede amittat, et regnum abjuret, et infra quadraginta dies a regno exulet. Et si ad aquam mundus fuerit, et inveniat plegios et remaneat in regno, nisi retatus fuerit de murdro vel alia turpi felonia per commune comitatus et legalium militum patriae, de quo (si praedicto modo retatus fuerit,) quamvis ad aquam salvus fuerit, nihilominus infra quadraginta dies a regno exeat, et catalla sua secum asportet, salvo jure dominorum suorum, et regnum abjuret in misericordia domini regis. Haec autem assisa atenebit a tempore quo assisa facta fuit apud Clarendonam, continue usque ad hoc tempus; et amodo quamdiu domino regi placuerit, in murdro, et proditione, et iniqua combustione, et in omnibus praedictis capitulis nisi in minutis furtis et roberiis, quae facta fuerunt tempore guerrae, sicut de equis et bobus et minoribus rebus.

2. Item nulli liceat neque in burgo neque in villa hospitari aliquem extraneum, ultra unam noctem, in domo sua, quem ad rectum habere noluerit, nisi hospitatus ille essonium rationabile habuerit, quod hospes domus monstret vicinis suis. Et cum recesserit, coram vicinis recedat et per diem.

3. Si quis saisitus fuerit de murdro vel latrocinio vel roberia vel falsoneria, et inde sit cognoscens, vel de aliqua alia felonia quam fecerit, coram praeposito hundredi vel burgi, et coram legalibus hominibus; id postea coram Justitiis negare non poterit. Et si idem sine saisina coram eis aliquid hujusmodi recognoverit, hoc similiter coram Justitiis negare non poterit.

Item si quis obierit francus-tenens, haeredes ipsius remaneant in tali saisina qualem pater suus habuit die qua fuit vivus et mortuus, de feodo suo; et catalla sua habeant unde faciant divisam defuncti: et dominum suum postea requirant,

et ei faciant de relevio et aliis quae ei facere debent de feodo suo. Et si haeres fuerit infra aetatem, dominus feodi recipiat homagium suum et habeat in custodia illum quamdiu debuerit. Alii domini, si plures fuerint, homagium ejus recipiant, et ipse faciat eis quod facere debuerit. Et uxor defuncti habeat dotem suam et partem de catallis ejus quae eam contingit. Et si dominus feodi negat haeredibus defuncti saisinam ejusdem defuncti quam exigunt, Justitiae domini regis faciant inde fieri percognitionem per duodecim legales homines, qualem saisinam defunctus inde habuit die qua fuit vivus et mortuus: et sicut recognitum fuerit, ita haeredibus ejus restituant. Et si quis contra hoc fecerit et inde attaintus fuerit, remaneat in misericordia regis.

7. Item Justitiae domini regis faciant fieri recognitionem de dissaisinis factis super Assisam, a tempore quo dominus rex venit in Angliam proximo post pacem factam inter ipsum et regem filium suum.

8. Item Justitiae capiant domini regis fidelitates infra clausum Pascha, et ad ultimum infra clausum Pentecosten, ab omnibus, scilicet comitibus, baronibus, militibus et liberetenentibus, et etiam rusticis, qui in regno manere voluerint. Et qui facere noluerit fidelitatem, tanquam inimicus domini regis capiatur. Habent etiam Justitiae praecipere, quod omnes illi qui nondum fecerunt homagium et ligantiam domino regi, quod ad terminum (quem eis nominabunt) veniant et faciant regi homagium et ligantiam sicut ligio domino.

9. Item Justitiae faciant omnes justitias et rectitudines spectantes ad dominum regem et ad coronam suam, per breve domini regis, vel illorum qui in loco ejus erunt, de feodo dimidii militis et infra, nisi tam grandis sit querela quod non possit deduci sine domino rege, vel talis quam Justitiae ei reportent pro dubitatione sua, vel ad illos qui in loco ejus erunt. Intendant tamen pro posse suo ad commodum domini regis faciendum. Faciant etiam assisam de latronibus iniquis et malefactoribus terrae; quae assisa est per consilium regis filii sui et hominum suorum per quos ituri sunt comitatus.

10. Item Justitiae provideant quod castella diruta prorsus diruantur et diruenda bene prosternantur. Et nisi hoc fecerint, dominus rex judicium curiae suae de eis habere voluerit sicut de contemptoribus praecepti sui.

11. Item Justitiae inquirant de excaetis, de ecclesiis, de terris, de feminis quae sunt de donatione domini regis.

10. Item baillivi domini regis respondeant ad scaccarium, tam de assiso redditu, quam de omnibus perquisitionibus suis, quas faciunt in bailliis suis; exceptis illis quae pertinent ad vicecomitatum.

11. Item Justitiae inquirant de custodiis castellorum, et qui, et quantum, et ubi eas debeant, et postea mandent domino regi.

12. Item latro, ex quo capitur, vicecomiti tradatur ad custodiendum. Et si vicecomes absens fuerit, ducatur ad proximum castellanum, et ipse illum custodiat donec illum liberet vicecomiti.

13. Item Justitiae faciant quaerere per consuetudinem terrae illos qui a regno recesserunt; et nisi redire voluerint infra terminum nominatum, et stare ad rectum in curia domini regis, postea utlagentur; et nomina utlagorum afferant ad Pascha, et ad festum Sancti Michaelis, ad scaccarium, et exinde mittantur domino regi.—(*Benedictus Abbas*, i. 108; *Hoveden*, ii. 89.)

A.D. 1181. Assize of Arms.

The *trinoda necessitas*, the obligation on all free men possessing land in full ownership, implied the duty of *expeditio* or *fyrd*, in addition to the maintenance of bridges and local defences (*brig-bot* and *burh-bot*). And this obligation to military service in defence of the country or of the peace survived the earlier system, and was not merged in the military machinery of feudalism. It was by the means of a general levy of the whole population of the shire under its ealdorman that the early wars against the Danes were fought, and to the want of a general centre, probably, their failure is to be ascribed. The *hus-carls* of Canute, on the other hand, were the germ of a standing army, and an anticipation of the system of fighting by mercenaries which was adopted by William the Conqueror and the Norman kings on account of the insufficiency of the feudal levies. The hatred of the English towards mercenaries reached a climax in the time of Stephen, and Henry II only ventured on one occasion to introduce his Brabançons into the country, after the expulsion

of the Flemings. Neither the feudal levies, which were unmanageable and precarious, nor the mercenaries, who were intolerable to the people, were available for the purposes served by the ancient national militia; and that body, which was the armed English people, had subsisted side by side with the county court and hundred court through the Norman period. It was this force which William Rufus had brought to the seaside for compulsory service, and had there released on the payment of the sum given to each man by his shire to provide him with necessaries during the campaign; and which, fighting under the banner of Archbishop Thurstan, who had called up every parish priest at the head of his parishioners, had won the battle of the Standard: the same force in 1173 had been out in Yorkshire in conjunction with the loyal barons, and had successfully resisted the Scottish invasion.

The Assize of Arms was a measure not peculiar to England,[1] but its effect in England was to re-create and re-arm this ancient force. The effect of the scutages in commutation of personal service was to diminish the military force under the influence of the barons, providing the king with mercenaries for his foreign wars: the Assize of Arms was intended to create a force for national defence, safer and more trustworthy than the feudal levies. And this purpose it seems to have answered; it was renewed or re-issued by Henry III in an expanded form and in conjunction with the system of Watch and Ward: and subsequent legislation by Edward I in the statute of Winchester, by Henry IV, Philip and Mary, and James I, has brought it down, in principle, to our own times as the *militia*. The importance of the Assize as illustrating the customary use of recognition by jury for the purpose of taxation, and the growing tendency to connect local and central administration, depends chiefly on Article 9. The occurrence

[1] It was applied to his continental possessions by Henry II in 1181, and was immediately imitated by Philip Augustus and Philip of Flanders (*Benedictus*, i. 269–70).

of the words *communa liberorum hominum*, in Article 3, is also interesting, and gives a sort of clue to the political tendency of the whole Act.

Assisa de Armis habendis in Anglia.

1. Quicunque habet feodum unius militis habeat loricam et cassidem, clypeum et lanceam; et omnis miles habeat tot loricas et cassides, et clypeos et lanceas quot habuerit feoda militum in dominico suo.

2. Quicunque vero liber laicus habuerit in catallo vel in redditu ad valentiam de xvi. marcis,habeat loricam et cassidem et clypeum et lanceam; quicunque vero liber laicus habuerit in catallo vel redditu x. marcas, habeat aubergel et capellet ferri et lanceam.

3. Item omnes burgenses et tota communa liberorum hominum habeant wambais et capellet ferri et lanceam.

4. Unusquisque autem illorum juret, quod infra festum Sancti Hilarii haec arma habebit, et domino regi Henrico scilicet filio Matildis imperatricis fidem portabit, et haec arma in suo servitio tenebit secundum praeceptum suum et ad fidem domini regis et regni sui. Et nullus ex quo arma haec habuerit, ea vendat, nec invadiet nec praestet, nec aliquo alio modo a se alienet; nec dominus suus ea aliquo modo ab homine suo alienet, nec per forisfactum, nec per donum, nec per vadium, nec aliquo alio modo.

5. Si quis haec arma habens obierit, arma sua remaneant haeredi suo. Si vero haeres de tali aetate non sit, quod armis uti possit, si opus fuerit, ille qui eum habebit in custodia habeat similiter custodiam armorum, et hominem inveniat qui armis uti possit in servitio domini regis, donec haeres de tali aetate sit quod arma portare possit, et tunc habeat.

6. Quicunque burgensis plura arma habuerit, quam habere oportuerit secundum hanc assisam, ea vendat vel det vel sic a se alienet tali homini qui ea in servitio domini regis Angliae retineat. Et nullus eorum plura arma retineat quam eum secundum hanc assisam habere oportuerit.

7. Item nullus Judaeus loricam vel aubergellum penes se retineat, sed ea vendat, vel det, vel alio modo a se removeat, ita quod remaneant in servitio regis.

8. Item nullus portet arma extra Angliam nisi per praeceptum domini regis; nec aliquis vendat arma alicui, qui ea

portet ab Anglia; nec mercator nec alius ea ab Anglia portet.

9. Item Justitiae faciant jurare per legales milites vel alios liberos et legales homines de hundredis et de visnetis et de burgis, quot viderint expedire, qui habebunt valentiam catalli secundum quod eum habere oportuerit loricam et galeam et lanceam et clypeum secundum quod dictum est; scilicet quod separatim nominabunt eis omnes de hundredis suis et de visnetis et de burgis, qui habebunt xvi. marcas vel in catallo vel in redditu, similiter et qui habebit x. marcas. Et Justitiae postea omnes illos juratores et alios faciant inbreviari, qui quantum catalli vel redditus habuerint, et qui secundum valentiam catalli vel redditus, quae arma habere debuerint; et postea coram eis in communi audientia illorum faciant legere hanc assisam de armis habendis, et eos jurare quod ea arma habebunt secundum valentiam praedictam catallorum vel redditus, et ea tenebunt in servitio domini regis secundum hanc praedictam assisam in praecepto et fide domini regis Henrici et regni sui. Si vero contigerit quod aliquis illorum qui habere debuerint haec arma, non sit in comitatu ad terminum quando Justitiae in comitatu illo erunt, Justitiae ponant ei terminum in alio comitatu coram eis. Et si in nullo comitatu per quos iturae sunt, ad eos venerit, et non fuerit in terra ista, ponatur ei terminus apud Westmuster ad octavas Sancti Michaelis, quod sit ibi ad faciendum sacramentum suum, sicut se et omnia sua diligit. Et ei praecipiatur quod infra festum praedictum Sancti Hilarii habeat arma secundum quod ad eum pertinet habendum.

10. Item Justitiae faciant dici per omnes comitatus per quos iturae sunt, quod qui haec arma non habuerint secundum quod praedictum est, dominus rex capiet se ad eorum membra et nullo modo capiet ab eis terram vel catallum.

11. Item nullus juret super legales et liberos homines, qui non habeat xvi. marcas, vel x. marcas in catallo.

12. Item Justitiae praecipiant per omnes comitatus, quod nullus sicut se ipsum et omnia sua diligit, emat vel vendat aliquam navem ad ducendum ab Anglia, nec aliquis deferat vel deferre faciat maironiam extra Angliam. Et praecepit rex quod nullus reciperetur ad sacramentum armorum nisi liber homo.—(*Ben. Abb.* i. 278; *Hoveden*, ii. 261.)

A. D. 1184. Assize of the Forest.

The forests of England were regarded, at least from the time of the Conquest, as the peculiar and personal property of the king, subject to his uncontrolled jurisdiction, and out of the scope of the common law of the realm. In origin they were probably the remaining unenclosed woodlands which had been national property, and became royal demesne in the eleventh century. There exists a series of directions for the management of these forests, stated to be enacted by Canute, with the consent of the witan. But the authenticity of this code (the *Constitutiones de Foresta*) cannot be maintained in the teeth of the considerations adduced by Professor Liebermann (*Über Pseudo-Cnuts Constitutiones de Foresta*, 1894); they must be treated as a forgery, the author of which hoped to palliate the injustices of the forest-system by giving to it the prestige of antiquity. Canute's genuine legislation on the point is very simple: 'I will that every man be worthy of his hunting in wood and field on his own estate. And let every man abstain from my hunting: look, wherever I will that it should be freed, under full penalty' (II Cnut, § 80). The ancient woodlands had been enclosed, with very extensive additions, as hunting grounds, by the Conqueror and his sons; a set of forest customs, cruel to man and beast, were brought into use by Henry I; and the supreme jurisdiction of the king over all woods and forests, whether on his own soil or not, was now asserted. This prerogative was odious both to the barons, with whose pleasures and rights it interfered, and to the people, on whom fell the cruelty of the executive administration. And the charter of Henry I failed to provide any remedy for the evil; the article that touches the forests amounting to a refusal of any limitation of the existing custom. Stephen, in his weakness, was compelled to resign all the forests that Henry I had created, but retained those that subsisted at the death of William Rufus. The jurisdiction had been resuscitated

by Henry II early in his reign, by the appointment of justices who visited the forests at the time that the Justices Itinerant 'went the counties' or 'circuits'. But this, the Assize of Woodstock, is his first formal act concerning them that is now in existence. The eleventh article of Henry's Assize is repealed by the Great Charter of John; and a parallel may be drawn between the county jurisdiction and the forest jurisdiction in several of the other articles, especially that requiring an oath from every person of twelve years old and upwards. The punishments prescribed by the assize are milder than those usual under Henry I, but the rigour with which the law was enforced was a great ground of complaint against Henry II; and this is altogether the part of his administration that savours most strongly of tyranny. Henry was an ardent and indefatigable hunter, and some of his most important councils were held, and acts performed, at his hunting palaces, such as Clarendon, Woodstock, and Marlborough.[1]

Incipit Assisa Domini Henrici regis de Foresta.

Haec est assisa domini Henrici regis filii Matildis, in Anglia, de foresta et venatione sua, per consilium et assensum archiepiscoporum, episcoporum, et baronum, comitum et nobilium Angliae, apud Wudestoke.

1. Primum defendit quod nullus ei forisfaciat de venatione sua nec de forestis suis in ulla re: et non vult quod confident in hoc quod habuerit misericordiam de illis propter eorum catalla huc usque qui ei forisfecerunt de venatione sua et de forestis suis. Nam si quis ei amodo forisfecerit et inde convictus fuerit, plenariam vult de illo habere justitiam qualis fuit facta tempore regis Henrici avi sui.

2. Item defendit quod nullus habeat arcus, nec sagittas, nec

[1] A full commentary on this Assize and on the Charter of the Forest of Henry III is supplied in Mr. G. J. Turner's introduction to the *Select Pleas of the Forests* (Selden Society, 1900). The number and the extent of the royal forests in the eleventh and twelfth centuries are alike uncertain. We have nothing like a complete list of them before the year 1222, when a large number are mentioned in the Patent and Close Rolls for the year.

canes, nec leporarios in forestis suis, nisi habeat warrantum regem vel aliquem alium qui ei warantizare poterit.

3. Item defendit quod nullus donet vel vendat aliquid ad destructionem vel vastum bosci sui, qui sunt infra forestam regis Henrici : concedit bene quod capiant de boscis eorum quod necesse eis fuerit, sine vasto, et haec per visum forestarii regis.

4. Item praecepit quod omnes illi qui habent boscos infra metas forestae regis, ponant idoneos forestarios in boscis eorum, de quibus forestariis ipsi quorum bosci fuerint sint plegii, vel tales inveniant plegios idoneos qui emendare poterunt si forestarii in aliquo forisfecerint quod domino regi pertineat. Et illi qui extra metas reguardi boscos habeant in quibus venatio domini regis pacem habet, nullum forestarium habeant, nisi assisam domini regis juraverint et pacem venationis suae, et custodem aliquem ad boscum ejus custodiendum.

5. Item praecepit dominus rex quod forestarii sui capiant curam super forestam militum et aliorum qui habent boscos infra metas forestae regis, quod bosci non destruantur ; nam si super hoc fuerint destructi bosci, sciant bene illi quorum bosci fuerint destructi, quod de ipsismet vel de eorum terris capietur emendatio et non de alio.

6. Item dominus rex praecepit quod omnes forestarii sui jurent quod secundum posse suum tenebunt assisam ejus qualem eam fecit de forestis suis ; et quod non vexabunt milites neque alios probos homines de hoc quod dominus rex concedit illis de boscis eorum.

7. Item rex praecepit quod in quolibet comitatu in quo habet venationem, ponantur xii. milites ad custodiendum venationem suam et viridem cum foresta ; et iv. milites ponantur ad agistandum boscos suos, et ad recipiendum panagium suum et custodiendum ; et defendit rex quod nullus agistet boscos suos infra metas forestae antequam bosci regis agistentur ; et incipit agistamentum domini regis quindecim dies ante festum Sancti Michaelis, et durat quindecim dies post festum Sancti Michaelis.

8. Et rex praecepit quod si forestarius ejus habeat boscos dominicos domini regis in custodia sua, et illi bosci fuerint destructi, et non possit nec sciat justam causam monstrare quare bosci destruantur, nihil aliud capiatur a forestario nisi proprium corpus.

9. Item rex defendit quod nullus clericus ei forisfaciat de

venatione sua nec de forestis suis : praecepit bene forestariis suis quod si invenerint eos forisfacientes, non dubitent in eos manum ponere, ad eos retinendum et attachiandum, et ipse eos bene warantizabit.

10. Item rex praecepit quod sua essarta videantur nova et vetera ; et purpresturae suae, et vasta forestae, et quod inbreviantur quaelibet per se.

11. Item rex praecepit quod [archiepiscopi, episcopi,] comites et barones et milites et libere tenentes et omnes homines veniant ad summonitionem magistri forestarii sui, sicut se defendi volunt ne incidant in misericordiam domini regis, ad placitandum placita domini regis de forestis suis, et alia negotia sua facienda in comitatu.

12. Apud Wdestoke rex praecepit, quicunque forisfecerit de foresta sua semel, de ipso salvi plegii capiantur ; et si iterum forisfecerit, similiter : si autem tertio forisfecerit, pro tertio forisfacto nulli alii plegii capiantur de illo, nec aliquid aliud nisi proprium corpus forisfacientis.

[13. Item praecipit quod omnis homo habens aetatem xii. annorum, manens infra pacem venationis, juret ejus pacem, et clerici laicum feodum tenentes

14. Item praecipit quod expeditatio mastivorum fiat ubicunque ferae suae pacem habent et habere consueverunt.

15. Item praecipit quod nullus tannator vel dealbator coriorum maneat in forestis suis extra burgum.

16. Item rex praecipit quod nullus de cetero chaceat ullo modo ad capiendum feras per noctem infra forestam neque extra, ubicunque ferae suae frequentant vel pacem habent aut habere consueverunt, sub poena imprisonamenti unius anni et faciendo finem et redemptionem ad voluntatem suam, et quod nullus sub eadem poena faciat aliquam forstallationem feris suis vivam vel mortuam inter forestam suam et boscos vel alia loca per ipsum vel progenitores suos deafforestatos.]—(*Ben. Abb.* ii. clxi ; a text based on that given in *Hoveden*, ii. 245. The words and clauses in square brackets are supplied from two Elizabethan copies, contained in Cotton MS. Vesp F. iv. fos. 10, 17.)

A.D. 1188. Ordinance of the Saladin Tithe.

The importance of this Act, constitutionally, consists in its being an early attempt to bring taxation to bear on personal

property ; and in the fact of the employment of local jurors to determine the liability of individuals, as had been done in 1181 in the Assize of Arms. In these points it should be compared with the corresponding edict of Philip Augustus. A similar but less complete plan had been tried in 1184.—(*Lib. Cust.* p. 653.)

Ordinance of the Saladin Tithe.

1. Unusquisque decimam reddituum et mobilium suorum in eleemosynam dabit ad subventionem terrae Jerosolymitanae hoc anno ; exceptis armis et equis et vestibus militum, exceptis similiter equis et libris et vestibus et vestimentis et omnimoda capella clericorum, et lapidibus pretiosis tam clericorum quam laicorum.

2. Colligatur autem pecunia ista in singulis parochiis, praesente presbytero parochiae et archipresbytero, et uno Templario et uno Hospitalario, et serviente domini regis et clerico regis, serviente baronis et clerico ejus, et clerico episcopi ; facta prius excommunicatione ab archiepiscopis, episcopis, archipresbyteris singulis in singulis parochiis, super unumquemque qui decimam praetaxatam legitime non dederit, sub praesentia et conscientia illorum qui debent, sicut dictum est, interesse. Et si aliquis juxta conscientiam illorum minus dederit quam debuerit, eligentur de parochia quatuor vel sex viri legitimi, qui jurati dicant quantitatem illam quam ille debuisset dixisse ; et tunc oportebit illum superaddere quod minus dedit.

3. Clerici autem et milites qui crucem acceperunt, nihil de decima ista dabunt, sed de proprio suo et dominico : et quicquid homines illorum debuerint ad opus illorum colligetur per supradictos, et eis totum reddetur.

4. Episcopi autem per litteras suas in singulis parochiis episcopatuum suorum facient nunciari, et in die Natalis, et Sancti Stephani, et Sancti Johannis, ut unusquisque decimam praetaxatam infra purificationem Beatae Virginis penes se colligat, et sequenti die et deinceps, illis praesentibus qui dicti sunt, ad locum quo vocatus fuerit, unusquisque persolvat.—(*Benedictus Abbas*, ii. 31 ; *Hoveden*, ii. 335.)

Extracts from Glanvill.

The following extracts are taken from the treatise *De Legibus et Consuetudinibus Angliae*, commonly attributed to Ranulf Glanvill, chief justiciar of England from 1180 to 1189. Probably the attribution is erroneous; but the preface of the work says that it was composed while Glanvill was justiciar; and it gives a trustworthy account of the law administered by the Curia Regis in Glanvill's time. Maitland has conjectured that it was written by Hubert Walter, who had been a clerk in Glanvill's household, and was a royal justice from 1184 onwards (see art. 'Glanvill' in the *Dict. Nat. Biog.*; and the chapter on 'The Age of Glanvill' in Pollock and Maitland, *History of English Law*, vol. i). Our extracts relate to the writ of right, the Grand Assize and the possessory assizes of Henry II, the jury of recognition, the status of the villein, and the relations of lord and vassal. The text of the seventeenth-century editions is faulty, and we have followed that of the Balliol College MS., which is one of the oldest and most accurate.

GLANVILL, *De Legibus Angliae*, lib. i. c. 5. Cum quis clamat se domino regi de feodo aut de libero tenemento suo, si fuerit loquela talis quod debeat, vel quod dominus rex velit eam in curiam suam deduci: tunc is qui queritur tale breve de summonitione habebit. c. 6. Rex vicecomiti salutem. Praecipe A. quod sine dilatione reddat B. unam hidam terrae in villa illa unde idem B. queritur quod praedictus A. ei deforceat: et nisi fecerit summone eum per bonos summonitores quod sit ibi coram me vel justitiariis meis in crastino post octabas clausi paschae ostensurus quare non fecerit. Et habeas ibi summonitores et hoc breve.

Lib. ii. c. 7. Est autem assisa illa (sc. magna) regale quoddam beneficium, clementia principis de consilio procerum populis indultum, quo vitae hominum et status integritati tam salubriter consulitur, ut, in jure quod quis in libero soli tenemento possidet retinendo, duelli casum declinare possint homines ambiguum. Ac per hoc contingit insperatae et prae-

maturae mortis ultimum evadere supplicium, vel saltem perennis infamiae opprobrium illius infesti et inverecundi verbi quod in ore victi turpiter sonat consecutivum. Ex aequitate autem maxime prodita est legalis ista constitutio; jus enim, quod post multas et longas dilationes per duellum vix evincitur, per beneficium ipsius constitutionis commodius et acceleratius expeditur. Assisa enim ipsa tot non expectat essonia quot duellum, ut ex sequentibus liquebit. Ac per hoc et laboribus hominum parcitur et sumptibus pauperum. Praeterea quanto magis ponderat in judiciis plurium idoneorum testium fides quam unius tantum, tanto majore aequitate nititur ista constitutio quam duellum. Cum enim ex unius jurati testimonio procedat duellum, duodecim ad minus hominum exigit ista constitutio juramenta.

Pervenitur autem ad assisam ipsam hoc ordine, quia is qui se in assisam posuit ab initio, perquiret breve de pace habenda, ne de cetero ab adversario ponatur in placitum per breve, quo prius inter eos placitum fuit de tenemento unde tenens posuit se in assisam. . . .

c. 10. Per talia autem brevia pacem perquirit is qui tenet, et in assisam se ponit, donec adversarius ad curiam veniens aliud breve perquirat, ut per quatuor legales milites de comitatu et de visneto eligantur duodecim milites legales de eodem visneto, qui super sacramentum suum dicant uter litigantium majus jus habeat in terra petita. . . .

c. 12. Sed notandum est quod apparentibus in curia quatuor militibus die sibi praefixa, paratis duodecim alios eligere, de bono et aequo prodita est quaedam constitutio, juxta quam de consilio ita solet res expediri, quod sive venerit sive non is qui tenet, nihilominus per illos quatuor milites, et super eorum sacramentum fiet electio ipsa. . . .

c. 14. Facta vero electione duodecim militum, summonendi sunt illi ut ad curiam veniant parati super sacramentum suum dicere quis eorum, id est an tenens an petens, majus jus habeat in sua demanda. . . .

c. 16. Die autem duodecim militibus praefixa ad recognitionem faciendam, sive venerit is qui tenet sive non, sine dilatione recognitio ipsa procedet. . . .

c. 17. Procedente autem assisa ad faciendam recognitionem ipsam, aut bene notum est jus ipsum ipsis juratoribus, aut quidam sciunt et quidam nesciunt, aut omnes ignorant. Si nulli eorum rei veritatem inde sciant, et hoc in curia supra

sacramentum eorum testati fuerint, ad alios decurrendum erit donec tales inveniantur qui rei veritatem inde sciant. Sin autem quidam eorum rei veritatem sciant, quidam non, rejectis ignorantibus, alii quidem vocandi erunt ad curiam donec duodecim ad minus inveniantur inde concordes. Item si quidam eorum dixerint pro uno, quidam pro alio litigantium, adjiciendi sunt alii donec duodecim ad minus in alterutram partem concorditer acquieverint. Jurare autem quilibet eorum debet, qui ad hoc vocati sunt, quod non falsum dicent inde nec veritatem tacebunt scienter ; ad scientiam autem eorum qui super hoc jurant inde habendam, exigitur quod per proprium visum suum et auditum illius rei habuerint notitiam, vel per verba patrum suorum et per talia quibus fidem teneantur habere in propriis. . . .

Lib. v. c. 5. Pluribus autem modis perduci potest ad libertatem aliquis in villenagio positus, veluti si dominus ejus, volens eum ad libertatem perduci a villenagio suo quo ei tenetur obnoxius, et a se et heredibus suis quietum clamaverit ; vel si eum ad liberandum alicui donaverit vel vendiderit. Illud tamen est notandum quod non potest aliquis in villenagio positus libertatem suam suis denariis quaerere. Posset enim tunc a domino suo secundum jus regni et consuetudinem ad villenagium revocari, quia omnia catalla cujuslibet nativi ita intelliguntur esse in potestate domini sui, quod propriis denariis suis non poterit se versus dominum suum a villenagio redimere. Si quis vero extraneus eum ad liberandum emeret suis nummis, posset quidem perpetuo versus dominum suum, qui eum vendiderat, se in statu libertatis tueri. . . .

Notandum etiam quod potest quis nativum suum quantum ad sui ipsius vel haeredum suorum personam liberum facere, non quantum ad alios. Quia si quis prius nativus, hoc modo ad libertatem perductus, contra extraneum ad aliquam diratiocinationem faciendam produceretur in curia, vel ad aliquam legem terrae faciendam, posset inde juste amoveri, si nativitas sua ad villenagium suum in curia objecta fuerit et probata, etiamsi in tali statu miles factus esset a villenagio liberatus.

Item si quis nativus quiete per unum annum et diem unum in aliqua villa privilegiata manserit, ita quod in eorum communem scilicet gildam tanquam civis receptus fuerit, eo ipso a villenagio liberatur. . . .

Lib. ix. c. 1. . . Fieri autem debet homagium sub hac forma,

scilicet ut is, qui homagium facere debet, ita fiat homo domini sui, quod fidem illi portet de illo tenemento unde homagium suum praestat, et quod ejus in omnibus terrenum honorem servet, salva fide debita domino regi et haeredibus suis. Et ex hoc liquet quod non potest vassallus dominum suum infestire, salva fide homagii sui nisi forte se defendendo, vel nisi ex praecepto Principis cum quo iverit contra dominum suum in exercitum. . . . Episcopi vero consecrati homagium facere non solent domino regi etiam de baroniis suis, sed fidelitatem cum juramentis interpositis ipsi praestare solent. Electi vero in episcopos ante consecrationem suam homagia sua facere solent.

c. 4. Mutua quidem debet esse dominii et homagii fidelitatis connexio, ita quod quantum homo debet domino ex homagio, tantum illi debet dominus ex dominio praeter solam reverentiam. . . .

ib. . . . Dicitur autem rationabile relevium alicujus juxta consuetudinem regni, de feodo unius militis centum solidos; de socagio vero quantum valet census illius socagii per unum annum; de baroniis vero nihil certum statutum est, quia juxta voluntatem et misericordiam domini regis solent baroniae capitales de suis releviis domino regi satisfacere. Idem est de sergantiis.

c. 8. Postquam vero convenerit inter dominum et haeredem tenentis sui de rationabili relevio dando et recipiendo, poterit idem haeres rationabilia auxilia de hominibus suis inde exigere; ita tamen moderate secundum quantitatem feodorum suorum, et secundum facultates, ne nimis inde gravari videantur vel suum contenementum amittere. Nihil autem certum statutum est de hujusmodi auxiliis dandis vel exigendis nisi ut praedicta forma rationabiliter observetur.

Sunt praeterea alii casus in quibus licet dominis auxilia similia, sed sub forma praescripta, exigere ab hominibus suis, veluti si filius et haeres suus miles fiat, vel si primogenitam filiam suam maritaverit; utrum vero ad guerram suam manutenendam possint hujusmodi auxilia exigere quaero. Obtinet autem quod non possint ad id tenentes distringere de jure nisi quatenus facere velint. Possunt autem domini tenentes suos ad hujusmodi rationabilia auxilia reddenda, etiam suo jure, sine praecepto domini regis vel capitalis Justitiae, per judicium curiae suae, distringere per catalla quae in ipsis feodis invenerint, vel per ipsa feoda si opus fuerit: ita tamen

quod ipsi tenentes inde deducantur juste secundum considerationem curiae suae et consuetudinem rationabilem : si ergo ad hujusmodi auxilia rationabilia reddenda posset dominus tenentes suos ita distringere, multo fortius districtionem eo modo licite poterit facere pro illo relevio suo vel pro alio necessario servitio suo de feodo suo debito.

Lib. xii. c. 1. Praedicta quidem placita de recto directe et ab initio veniunt in curiam domini regis. . . . Quandoque etiam, licet ab initio non veniant in curiam domini regis quaedam placita de recto, veniunt tamen per translationem, ubi curiae diversorum dominorum probantur de recto defecisse. Tunc enim, mediante comitatu, possunt a comitatu ex diversis causis . . . ad capitalem curiam domini regis transferri.

c. 6. Solent autem placita ista (sc. de servitio) in curiis dominorum, vel eorum qui loco dominorum habentur, deduci, secundum rationabiles consuetudines ipsarum curiarum, quae, quia tot et tam variae sunt, in scriptum de facili reduci non possunt.

c. 9. Ad vicecomites itaque provinciarum pertinent praedicta placita de recto ubi curiae dominorum probantur de recto defecisse. . . .

c. 23. Praedicta vero placita sive alia, qualiter vel quo jure deduci sive terminari habeant in diversis comitatibus, omitto, cum propter ipsorum comitatuum consuetudines diversas, quas quidem singuli comitatus singulas observant, tum quia propositi mei brevitas illud non exigit, cum non attendam nisi ad ea quae in capitali curia regis fieri soleant et debeant.

Lib. xiii. c. 3. Rex vicecomiti salutem. Si G. filius O. fecerit te securum de clamore suo prosequendo, tunc summone per bonos summonitores duodecim liberos et legales homines de visneto de illa villa, quod sint coram me vel Justiciis meis eo die parati sacramento recognoscere si O. pater praedicti G. fuit seisitus in dominico suo, sicut de feodo suo, de una virgata terrae in illa villa die qua obiit ; si obiit post primam coronationem meam, et si ille G. propinquior haeres ejus sit. Et interim terram illam videant, et nomina eorum inbreviari facias. Et summone per bonos summonitores R. qui terram illam tenet, quod tunc sit ibi auditurus illam recognitionem, &c.

c. 33. Rex vicecomiti salutem. Questus est mihi N. quod R. injuste et sine judicio deseisivit eum de libero tenemento suo in illa villa post ultimam transfretationem meam in Normanniam. Et ideo tibi praecipio quod, si praedictus N. fecit

te securum de clamore suo prosequendo, tunc facias tenementum illud resaisiri de catallis quae in ipso capta fuerunt, et ipsum tenementum cum catallis esse in pace usque ad clausum Pascha. Et interim facias duodecim liberos et legales homines de visneto videre tenementum illud, et nomina eorum imbreviari. Et summone per bonos summonitores quod tunc sint coram me vel Justiciis meis parati inde facere recognitionem. Et pone per vadium et per salvos plegios praedictum R., vel baillivum suum si ipse inventus non fuerit, quod tunc sit ibi auditurus illam inquisitionem.

Charters of Boroughs granted by Henry II.

The following are specimens of the charters issued by Henry II in the earlier part of his reign. Towards the end of it he seems to have avoided granting such permanent liberties, and to have generally preferred taking fines for the continuance of privileges or customs from year to year. The grants of these charters are not much in advance of those of Henry I. The following list of liberties acquired by fine during the intervening period is abridged from Madox's *History of the Exchequer*, chap. xi :—In the thirty-first of Henry I the citizens of London pay 100 marks to have sheriffs of their own choosing : those of Lincoln pay 200 marks of silver, and four of gold, that they may hold their city in chief of the king : the weavers of Oxford pay two marks of gold for their guild ; those of Lincoln, one ; those of Huntingdon, forty shillings. Thomas of York, son of Ulviet, gives a coursing dog that he may be alderman of the Guild of Merchants at York.

In the third of Henry II the citizens of York pay forty marks for respite that they may not plead outside of the county until the king's return : in the thirteenth, the burghers of Bedford pay forty marks to have the same liberties that those of Oxford have : in the sixteenth, those of Shrewsbury and Bridgnorth pay a fine to have their town at ferm : in the twenty-second, the men of Andover pay to have the same

liberties in their guild that those of Wilton and Salisbury have: and in the twenty-sixth, the men of Preston pay to have the same liberties as those of Newcastle. In the thirty-first, the burghers of Cambridge pay three hundred marks of silver, and one mark of gold, to have their town at ferm, and be exempt from the intermeddling of the sheriff. In the fourteenth of Henry II, the men of Horncastle paid £29 13*s.* 4*d.* for the aid to marry the king's daughter, 'quod ipsi assederunt inter se concessu Justitiarum aliter quam Justitiae.'

A.D. 1161–1189 (? 1185). *Charter of Henry II to Cambridge.*

Henricus Dei gratia Rex Angliae et Dux Normanniae et Comes Andegaviae, justiciariis, vicecomitibus et omnibus ministris et fidelibus suis salutem. Sciatis me tradidisse ad firmam burgensibus meis de Cantebruge villam meam de Cantebruge, tenendam de me in capite per eandem firmam quam vicecomites mihi reddere solebant, et ut ipsi inde ad scaccarium meum respondeant. Et ideo praecipio quod prefatos burgenses et omnia sua custodiatis et manuteneatis sicut mea propria ne quis eis in aliquo injuriam vel molestiam faciat vel gravamen. Nolo enim quod ipsi alicui inde respondeant nisi mihi et ad scaccarium meum. Teste Rogero filio Reinfridi apud Keueilli.—(Maitland and Bateson, *Cambridge Borough Charters*, p. 3.)

A.D. 1155–1158. *Charter of Henry II to Winchester.*

Henricus rex Angliae, dux Normanniae et Aquitaniae, comes Andegaviae, archiepiscopis, episcopis, abbatibus, comitibus, vicecomitibus et omnibus fidelibus suis Francis et Anglis, et ministris totius Angliae et omnium portuum maris salutem. Praecipio quod cives mei Wintonienses de gilda mercatorum cum omnibus rebus suis sint quieti de omni thelonio, passagio et consuetudine; et nullus super eos disturbet neque injuriam neque contumeliam eis faciat super forisfacturam meam. His testibus, Tho. Cancell.; Com. Reg.; Com. Gloec.; Ric. de Humet, Constabulario; Gar. fil. Giroldi, Camerario: Will. fil. Ham.; Joc. Baillol.—(*Milner's Winchester*, ii. 300; *Woodward's Hampshire*, i. 271.)

Charter of Henry II to Winchester.

H. Rex Anglorum, &c. Sciatis me concessisse civibus meis Wyntoniae omnes libertates et consuetudines quas ipsi habuerunt in tempore regis Henrici avi mei. Et praecipio quod habeant et teneant omnia acata et vadia sua et tenementa sua secundum consuetudines civitatis, ita libere et quiete et pacifice, sicut unquam melius tenuerunt tempore regis Henrici; et si aliquae consuetudines injuste levatae sunt in guerra, cassatae sint; et quicunque petierint civitatem illam cum mercatu suo, de quocunque loco sint, sive extranei, sive alii, veniant, morentur et recedant in salva pace mea, reddendo rectas consuetudines, et nemo eas injuste disturbet super hanc cartam meam. Et volo et praecipio quod praedicti cives mei firmam pacem juste habeant. T. Cancellario, &c. Apud Sarum.—(*Woodward's Hampshire*, i. 271.)

Cir. A. D. 1157. *Charter of Henry II to Lincoln.*

Henricus Dei gratia &c. episcopo Lincolniensi, justitiariis, vicecomitibus, baronibus, ministris et omnibus fidelibus suis Francis et Anglis Lincolniae salutem. Sciatis me concessisse civibus meis Lincolniae omnes libertates et consuetudines et leges suas quas habuerunt tempore Eduardi et Willelmi et Henrici regum Angliae, et gildam suam mercatoriam de hominibus civitatis et de aliis mercatoribus comitatus, sicut illam habuerunt tempore praedictorum antecessorum nostrorum regum Angliae melius et liberius. Et omnes homines qui infra quatuor divisas civitatis manent et mercatum deducunt, sint ad geldas et consuetudines et assisas civitatis sicut melius fuerunt tempore Eduardi Willelmi et Henrici regum Angliae. Concedo etiam eis quod si aliquis emerit aliquam terram infra civitatem de burgagio Lincolniae, et eam tenuerit per annum et unum diem sine calumnia, et ille qui eam emerit, possit monstrare quod calumniator exstiterit in regione Angliae infra annum et non calumniatus est eam, extunc ut in antea bene et in pace teneat eam et sine placito. Confirmo etiam eis quod si aliquis manserit in civitate Lincolniae per annum et unum diem sine calumnia alicujus calumniatoris, et dederit consuetudines, et cives poterint monstrare per leges et consuetudines civitatis quod calumniator exstiterit in regione Angliae et non calumniatus est eum, extunc ut in antea remaneat in pace, in civitate mea Lincolnia, sicut civis meus sine . . . recto. Testibus Ph.

episcopo Baioc., Ern. episcopo Lexov., Toma Cancellario, Comite Regin., Ric. de Humes Constabulario, H. de Essexa Constabulario. Apud Notingeham.—(*Hist. MSS. Comm.*, 14*th Rep.*, Appendix, viii. 2.)

Charter of Henry II to Nottingham.

Henricus, Rex Angliae, &c. Sciatis me concessisse et hac carta mea confirmasse burgensibus de Notingeham omnes illas liberas consuetudines quas habuerunt tempore Henrici avi nostri; scilicet tol et theam et infangenetheof et telonia a Thurmotestona usque ad Newerc, et de omnibus Trentam transeuntibus, ita plenarie ut in burgo de Notingeham, et ex alia parte a duito ultra Rempestunam usque ad aquam de Radeford in Nort. Homines etiam de Notingehamscira et de Derbessira venire debent ad burgum de Notingeham die Veneris et Sabbati cum quadrigis et summagiis suis: nec aliquis infra decem leucas in circuitu de Notingeham tinctos pannos operari debet, nisi in burgo de Notingeham. Et si aliquis, undecunque sit, in burgo de Notingeham manserit anno uno et die uno, tempore pacis, absque calumnia, nullus postea nisi rex in eum jus habebit. Et quicunque burgensium terram vicini sui emerit et possederit per annum integrum et diem unum absque calumnia parentum vendentis, si in Anglia fuerint, postea eam quiete possidebit. Neque praeposito burgi de Notingeham aliquem burgensium calumnianti respondeatur nisi alius fuerit accusator in causa. Et quicunque in burgo manserit, cujuscunque feodi sit, reddere debet simul cum burgensibus talliagia et defectus burgi adimplere. Omnes etiam qui ad forum de Notingeham venerint, a vespere diei Veneris usque ad vesperam Sabbati, non namientur nisi pro firma regis. Et iter de Trenta liberum esse debet navigantibus quantum pertica una obtinebit ex utraque parte fili aquae. Quare volo et praecipio quod praedicti burgenses praedictas consuetudines habeant et teneant bene et in pace, libere et quiete, et honorifice et plenarie et integre, sicut habuerunt tempore regis Henrici avi mei. Testibus, &c.—(W. H. Stevenson, *Nottingham Charters*, p. 2.)

A.D. 1155–1162. *Charter of Henry II to Oxford.*

Henricus Dei gratia rex Angliae, dux Normanniae et Aquitaniae &c. Sciatis me concessisse et confirmasse civibus

meis de Oxenforda libertates et consuetudines et leges et quietantias suas quas habuerunt tempore regis Henrici avi mei, nominatim gildam mercatoriam cum omnibus libertatibus et consuetudinibus in terris et in silvis et pasturis et aliis pertinentiis, ita quod aliquis qui non sit de gilda illa aliquam mercaturam non faciet in civitate vel suburbio, nisi sicut solebat tempore regis Henrici avi mei. Praeterea concessi et confirmavi eis quod sint quieti a theloneo et passagio et omni consuetudine per totam Angliam et Normanniam, per terram, et aquam, et ripam maris, *bi land* et *bi strand*. Et habeant omnes alias consuetudines et libertates et leges suas quas habeant communes cum civibus meis Londoniarum. Et quod ad festum meum mihi serviant cum illis de butteillaria mea, et faciant communiter cum eis mercaturam suam infra Londonias et extra et in omnibus locis. Et si dubitaverint vel contenderint de judicio aliquo quod facere debeant, de hoc Londonias mittant nuncios suos, et quod Londonienses inde judicabunt firmum et ratum habeant. Et extra civitatem Oxenforde non placitent de aliquo unde calumniati sunt, sed de quocunque in placito ponentur se disrationabunt secundum leges et consuetudines civium Londoniarum et non aliter ; quia ipsi et cives Londoniarum sunt de una et eadem consuetudine et lege et libertate. Quare volo &c. quod habeant et teneant praedictas libertates et leges et consuetudines et tenuras suas ita bene et in pace &c. cum saca et soca et tol et team et infangetheof, et cum omnibus aliis libertatibus et consuetudinibus et quietantiis suis sicut eas unquam melius habuere tempore regis Henrici avi mei ; et sicut cives mei Londoniarum eas habent. Testibus Toma Cancellario, Reginaldo Comite Cornubiae, H. Comite Norfolkiae &c.—(Ogle's *Royal Letters addressed to Oxford*, p. 4, from an inspeximus of Queen Elizabeth.)

Dialogus de Scaccario.

(*De Necessariis Observantiis Scaccarii Dialogus.*)

The important treatise from which the following extracts are taken is the work of Richard fitz Nigel, Treasurer of the Exchequer under Henry II. Richard was the son of Nigel, Bishop of Ely, who preceded him in the treasurer's office ; and the grandson or grand-nephew of Roger, Bishop of Salisbury, by

whom the Exchequer had been organized in the reign of Henry I. Richard fitz Nigel became treasurer in or shortly before 1160, and held that post till his death (1198). He wrote this dialogue in the year 1177. It is primarily intended to explain the system on which the sheriff's accounts were audited and enrolled; and is, therefore, an indispensable commentary upon the Pipe Rolls (*supra*, p. 158). It also contains some curious historical traditions, concerning the origin of the Exchequer and other matters; and finally it throws much light on the fiscal rights of the crown. The monograph by R. L. Poole, *The Exchequer in the Twelfth Century* (Oxford, 1912), will be found a useful guide to the work; and some special points of difficulty are discussed in the preface to the Oxford edition.

It was first published by Madox, as an appendix to his invaluable *History of the Exchequer*; and was reprinted in its entirety in earlier editions of the *Select Charters*. A more accurate text was published in 1902 by Messrs. Hughes, Crump, and Johnson: the readings of this text, which we call the Oxford edition, have been utilized in preparing the present selection of abstracts.

PRAEFATIO.

Ordinâtis a Deo potestatibus in omni timore subici simul et obsequi necesse est. Omnis enim potestas a Domino Deo est. Non ergo videtur absurdum vel a viris ecclesiasticis alienum, regibus quasi praecellentibus et ceteris potestatibus serviendo, sua jura servare; praesertim in hiis quae veritati vel honestati non obviant. Oportet autem hiis servire, non in conservandis tantum dignitatibus, per quas gloria regiae potestatis elucet, verum in mundanarum facultatum copiis, quae eos sui status ratione contingunt: illae enim illustrant, haec subveniunt. Porro mobilium copia, vel defectus, principum potestates humiliat vel exaltat. . . . Ea propter, rex illustris, mundanorum principum maxime, quia saepe te vidimus utroque tempore gloriosum, non parcentem quidem pecuniae thesauris, sed pro loco, pro tempore, pro personis, legitimis sumptibus insistentem, modicum opus excellentiae tuae devovimus, non de rebus quidem magnis vel luculento sermone compositum, sed agresti stylo de scaccarii tui necessariis observantiis.

Porro super hiis te vidimus quandoque sollicitum, adeo ut missis a latere tuo viris discretis, de eodem dominum tunc Eliensem conveneris. Nec fuit absurdum tam excellentis ingenii virum, tam singularis potentiae principem, inter cetera majora haec etiam curasse. Sane scaccarium suis legibus non temere, sed magnorum consideratione subsistit ; cujus ratio si servetur in omnibus, poterunt singulis sua jura servari, et tibi plane provenient quae fisco debentur ; quae possit opportune nobilissimae mentis tuae ministra manus effundere.

Liber Primus.

I. *Quid sit Scaccarium, et quae ratio hujus nominis.*

Discipulus. Quid est scaccarium ?

Magister. Scaccarium tabula est quadrangula quae longitudinis quasi decem pedum, latitudinis quinque, ad modum mensae circumsedentibus apposita, undique habet limbum altitudinis quasi quatuor digitorum, ne quid appositum excidat. Superponitur autem scaccario pannus in termino Paschae emptus, non quilibet, sed niger virgis distinctus, distantibus a se virgis vel pedis vel palmae extentae spatio. In spatiis autem calculi sunt juxta ordines suos de quibus alias dicetur. Licet autem tabula talis scaccarium dicatur, transumitur tamen hoc nomen, ut ipsa quoque curia quae consedente scaccario est scaccarium dicatur ; adeo ut si quis per sententiam aliquid obtinuerit, vel aliquid de communi consilio fuerit constitutum, dicatur factum ad scaccarium illius vel illius anni. Quod autem hodie dicitur ad scaccarium, olim dicebatur ad taleas. . . .

II. *Quod aliud est inferius, aliud superius ; una tamen origo utriusque.*

D. Nunquid solum illud scaccarium est in quo est talis conflictus ?

M. Non. Est enim inferius scaccarium, quod et recepta dicitur, ubi pecunia numeranda traditur, et scriptis et taleis committitur, ut de eisdem postmodum in superiori compotus reddatur ; una tamen est utriusque origo ; quia quicquid solvendum esse in majore deprehenditur, hic solvitur ; et quod hic solutum fuerit, ibi computatur.

III. *Quae sit ratio vel institutio inferioris per singula officia.*

D. Quae est ratio vel institutio inferioris scaccarii ?

M. Ut video, nullius horum ignorantiam sustines. Noveris autem quod inferius illud scaccarium suas habet personas, ratione quidem officiorum a se distinctas, sed in regis utilitatem, salva tamen aequitate, pari intentione devotas; omnes quidem dominorum suorum nominibus non propriis militantes, exceptis duobus dumtaxat, milite scilicet qui praeest examinibus, et fusore. Horum enim officia de regis tantum pendent arbitrio; unde magis ad superius quam ad inferius pertinere videntur, sicut infra dicetur. Illic est clericus thesaurarii cum sigillo ejus. Sunt et duo milites camerariorum. Est et miles quidam qui argentarius dici potest; quia ex officio argento examinando praeest. Est et fusor qui argentum examinat. Sunt et quatuor computatores ad numerandam pecuniam. Est et ostiarius thesauri, et vigil. Horum autem haec sunt officia. Clericus thesaurarii, cum fuerit numerata pecunia, et in forulos missa per centenas libras, apponit sigillum, et deputat scripto, quantum, vel a quo, vel ob quam causam receperit; taleas quoque de eadem recepta a camerariis factas inbreviat; non solum autem pecuniae saccis sed et archis et singulis forulis in quibus rotuli vel taleae collocantur, si libet, apponit sigillum; et ad omnia subjecta officia diligenter prospicit, et nihil eum latet. Militum, qui et camerarii dicuntur quod pro camerariis ministrant, hoc est officium: hi claves archarum bajulant; archae enim cuilibet duae serae sunt diversi generis, hoc est, cujus neutri clavis alterius possit aptari; et hii claves earum deferunt; circumcingitur autem quaelibet arca corrigia quadam immobili, in qua desuper firmatis seris thesaurarii sigillum apponitur; ut nulli eorum nisi de communi assensu accessus pateat. Item officium horum est, numeratam pecuniam et in vasis ligneis per centenos solidos compositam ponderare, ne sit error in numero, tunc demum in forulos mittere per centenas, ut dictum est, libras. Quod si vas aliquod inventum est minus habens, non quidem per aestimationem quod deesse putatur apponitur, sed statim de quo dubitatur in acervum numerandorum projicitur. Et nota quosdam comitatus a tempore regis Henrici primi et in tempore regis Henrici secundi licite potuisse cujuscunque monetae denarios solutioni offerre, dummodo argentei essent et ponderi legitimo non obstarent; quia scilicet monetarios ex antiqua institutione non habentes, undecunque sibi denarios perquirebant; quales sunt Norhumberland et Cumberland; sic autem suscepti denarii,

licet de firma essent, seorsum tamen ab aliis cum quibusdam signis appositis mittebantur. Reliqui vero comitatus solos usuales et instantis monetae legitimos denarios tam de firmis quam de placitis afferebant. At postquam rex illustris, cujus laus est in rebus magnis excellentior, sub monarchia sua per universum regnum unum pondus et unam monetam instituit, omnis comitatus una legis necessitate teneri et generalis commercii solutione coepit obligari. Omnes itaque idem monetae genus quomodocunque teneantur solvunt ; sed tamen exactionis quae de combustione provenit jacturam omnes non sustinent. Item hii taleas faciunt de receptis, et commune est eis cum clerico thesaurarii, ut per brevia regis vel praecepto baronum, thesaurum susceptum expendant ; non tamen inconsultis dominis suis. Hii tres simul omnes vel vicissim cum thesauro mittuntur cum oportuerit. His tribus praecipua cura est in omnibus hiis quae in inferiori scaccario fiunt.

D. Ergo, ut video, licet his per breve regis, vel praecepto eorum qui praesident, thesaurum susceptum consultis tamen dominis suis expendere.

M. Licet, inquam, hoc modo. De liberationibus servientium inferioris scaccarii, et de minutis necessariis scaccarii emendis, qualia sunt vasa illa lignea, et alia, de quibus infra dicetur, eorum fidei committitur ; alias autem non. Qui vero breve regis vel cartam detulerit pro pecunia, praecipientibus dominis suis, hac ei lege solvatur id quod expresse nominatur in brevi, ut antequam exeat, susceptam pecuniam numeret ; quod si quid defuerit, redeat ad scaccarium is qui suscepit, et fidei religionem praestet sub hac forma : quod quantum suscepit reportavit, hoc apposito, *secundum conscientiam suam,* ut fit in aliis ; et hoc facto, solvatur ei quod restat ; numerata prius eadem coram omnibus a constitutis computatoribus. Si vero lege sibi proposita ostium thesauri egressus fuerit ; quaecunque fuerit persona, vel quantacunque jactura, non ei respondeatur. Militis argentarii et fusoris officia sibi videntur annexa, et ad superius scaccarium magis pertinentia ; et ob hoc ibidem cum ceteris officiis explananda. Quatuor computatorum officium hoc est. Cum in scaccarium numeranda pecunia mittitur, unus eorum diligenter totam commiscet, ut non seorsum meliores et seorsum deteriores sint, sed mixti, ut ponderi respondeant ; quo facto, camerarius ad libram scaccarii ponderat quantum oportet in trutina. Quod si numerus xx. solidorum plus quam vi. nummis excreverit

respectu librae, indigna recipi dicitur: si vero vel ad vi. denarios vel infra se cohibet, suscipitur; et a computatoribus diligenter per centenos solidos, ut praedictum est, numeratur. Si vero de firma sint denarii et sint examinandi, facta commixtione xliiii. solidorum de acervo, in loculum seorsum mittuntur, et huic vicecomes signum suum apponit; ut ex hiis postmodum examen, quod vulgo essaium dicitur, fiat, sicut ex consequentibus liquebit. Erit autem curae eorum qui praesunt receptae gratia dominorum suorum, hoc est, clerici thesaurarii et camerariorum, ut recepta pecunia seorsum mittant examinati argenti pondera et denarios de firma, appositis quibusdam signis saccis eorum, ut si rex vasa argentea ad cultum domus Dei, vel ad domus propriae obsequium, vel forte monetas transmarinas fieri voluerit, ex hiis fiant.

D. Est aliquid in praedictis quod me pulsat.

M. Dic ergo.

D. Dixisti, si bene memini, quod ad scaccarium quandoque differtur solvenda pecunia, quae judicatur indigna recipi, si scilicet pensata cum libra ponderis de scaccario, inventa est minus habens ultra vi. denarios. Cum ergo quaelibet moneta regni hujus impressam habere debeat regis imaginem, et ad idem pondus omnes monetarii teneantur operari, qualiter fieri poterit ut non omne eorum opus ejusdem ponderis sit?

M. Magnum est quod quaeris, et alterius egens inquisitionis, attamen fieri potest per falsarios et nummorum decurtatores vel detonsores. Noveris autem monetam Angliae in tribus falsam deprehendi, in falso scilicet pondere, in falsa lege, in falsa imagine. His tamen falsitatibus par poena non debetur. Sed de hiis alias. . . .

IV. *Quae sit auctoritas superioris, et unde sumpsit originem?*

M. Licet eorum qui ad scaccarium majus resident, officia quibusdam videantur proprietatibus esse distincta; unum tamen omnium officium est et intentio; ut regis utilitati prospiciant; salva tamen aequitate secundum constitutas leges scaccarii. Ejus autem ratio vel institutio cum ipsa temporis antiquitate, tum magnorum qui assident auctoritate, roborata subsistit. Ab ipsa namque regni conquisitione per regem Willelmum facta coepisse dicitur, sumpta tamen ipsius ratione a scaccario transmarino: verum in plurimis et pene majoribus dissident. Sunt etiam qui credunt usum ejus sub regibus Anglicis exstitisse; hinc sumentes rei hujus argumentum,

quod coloni et jam decrepiti senes fundorum illorum qui coronae annominantur, quorum in hiis cana memoria est, optime noverint a patribus suis edocti, quantum de albo firmae pro singulis libris solvere teneantur. Sed haec ratio cogens est de firmae solutione, non de scaccarii sessione. Videtur autem eis obviare, qui dicunt album firmae a temporibus Anglicorum coepisse, quod in libro judiciario in quo totius regni descriptio diligens continetur, et tam de tempore regis Edwardi, quam de tempore regis Willelmi sub quo factus est, singulorum fundorum valentia exprimitur, nulla prorsus de albo firmae fit mentio : unde probabile videtur, quod, facta illa descriptione tempore jam dicti regis, de albo firmarum fuerit a studiosis ejus constitutum propter causas, quae inferius annotantur. Quocunque vero tempore coeperit usus ejus, certum est quod magnorum auctoritate roboratur ; adeo ut nulli liceat statuta scaccarii infringere, vel eis quavis temeritate resistere. Habet enim hoc commune cum ipsa domini Regis Curia, in qua ipse in propria persona jura decernit, quod nec recordationi, nec sententiae in eo latae licet alicui contradicere. Huic autem curiae tam insignis auctoritas est, tum propter regiae imaginis excellentiam quae in sigillo ejus in thesauro individua lege servatur ; tum propter eos qui assident, ut dictum est, quorum solertia totius regni status indemnis servatur. Illic enim residet capitalis domini regis Justicia, primus post regem in regno ratione fori, et majores quique de regno, qui familiarius regiis secretis assistunt ; ut quod fuerit sub tantorum praesentia constitutum vel terminatum, inviolabili jure subsistat. Verum quidam ex officio, quidam ex sola jussione principis resident. Ex officio principaliter residet, immo et praesidet, primus in regno, capitalis scilicet Justicia. Huic autem assident ex sola jussione principis, momentanea scilicet et mobili auctoritate quidam, qui majores et discretiores videntur in regno, sive de clero sint sive de curia. Assident inquam ad discernenda jura et dubia determinanda quae frequenter ex incidentibus quaestionibus oriuntur. Non enim in ratiociniis sed in multiplicibus judiciis excellens scaccarii scientia consistit. Facile enim est, proposita summa quae exigitur, et suppositis ad collationem ejus hiis quae soluta sunt, per subtractionem discernere, si satisfactum est, vel si quid restat. At cum coeperit multiplex inquisitio fieri de hiis rebus, quae varie fisco proveniunt et diversis modis requiruntur, et a vicecomitibus non eodem

modo perquiruntur, discernere si secus egerint, quibusdam grave est, et ob hoc circa haec scientia scaccarii major esse dicitur. Dubiorum vero vel dubitalium judicia, quae frequenter emergunt, sub una tractatus serie comprehendi non valent; quia necdum omnia dubiorum genera in lucem prodierunt. Quaedam tamen ex hiis quae proposita vel determinata cognovimus, suis locis inferius annotabimus.

V. *Quid sit officium Praesidentis, et omnium illic ex officio residentium; et quae dispositio sedium.*

D. Quid est hujus tam excellentis sessoris officium?

M. Aliud verius attribui sibi non valet, nisi quod omnibus, quae inferiore vel superiore scaccario fiunt, hic prospicit et ad nutum ipsius quaelibet officia subjecta disponuntur; sic tamen ut ad domini regis utilitatem juste proveniant. Hoc tamen inter cetera videtur excellens, quod potest hic sub testimonio suo breve domini regis facere fieri, ut de thesauro quaelibet summa liberetur, vel ut computetur alicui quod sibi ex domini regis mandato praenoverit computandum; vel si maluerit, breve suum faciet sub aliorum testimonio de his rebus.

D. Magnus est hic, cujus fidei totius regni cura, immo et cor regis committitur. Scriptum quippe est, 'ubi est thesaurus tuus, ibi est et cor tuum.' Sed jam si placet prosequere de ceteris.

M. Vis prosequar de ipsis secundum gradus dignitatum an secundum dispositionem sedium?

D. Secundum quod quisque ratione officii sui sedem adeptus est. Facile enim erit ut credo ex officiis perpendere dignitates.

M. Ut noveris quo ordine disponantur, scias ad quatuor scaccarii latera quatuor poni sedilia vel scanna. Ad caput vero scaccarii, hoc est unde latitudo discernitur, in medio non sedilis sed scaccarii, locus est illius principalis de quo supra diximus. In laeva ejus primo loco residet cancellarius ratione officii, si adesse eum contingat: post hunc miles gregarius quem constabularium dicimus: post hunc duo camerarii, prior autem, qui intuitu provectioris aetatis venerabilior esse videbitur: post hos miles qui vulgo dicitur marescallus: inseruntur tamen quandoque alii hiis absentibus, vel forte eis praesentibus, si tanta scilicet fuerit auctoritas eorum qui a rege destinantur, ut eis cedere debeant. Et haec est dispositio primi sedilis. In secundo vero quod est ad latus longitudinis scaccarii, in primo capite residet clericus vel alius

serviens camerariorum cum recautis, hoc est, cum contrataleis de recepta. Post hunc interpositis quibusdam qui non ex officio resident sed sunt a rege missi, locus est quasi in medio lateris scaccarii illi qui compotos positione ponit calculorum. Post hunc aliqui non ex officio, necessarii tamen. In fine sedilis illius residet clericus qui scriptorio praeest ; et hic ex officio. Sic habes secundi scanni dispositionem. Verum ad dextram praesidentis justiciarii residet primo loco nunc Wintoniensis Episcopus quondam Pictaviensis Archidiaconus, non ex officio quidem sed ex novella constitutione ; ut scilicet proximus sit thesaurario, et scripturae rotuli diligenter intendat. Post hunc residet thesaurarius in capite secundae sedis in dextra, cui diligentissima cura est per singula quae illic geruntur, quasi rationem de hiis omnibus si oportuerit reddituro. Post hunc residet clericus ejus, scriptor rotuli de thesauro : post hunc alius scriptor rotuli de cancellaria : post hunc clericus cancellarii, qui oculata fide semper prospicit, ut rotulus suus alii per singula respondeat, ut nec iota unum desit, nec alius sit ordo scribendi : post hunc quasi in fine sedilis illius residet clericus constabulariae, magnus quidem et officiosus in domini regis curia, et hic quidem habens officium quod per seipsum vel per clericum discretum, si regi visus fuerit alias magis necessarius, administrat. Et haec est descriptio tertiae sedis. In quarto scanno, quod est oppositum justiciario, in capite residet Magister Thomas cognomine Brunus, cum rotulo tertio qui ex novella constitutione, hoc est a domino rege nostro, additus est ; quia scriptum est, ' funiculus triplex difficile solvitur.' Post hunc vicecomites et clerici sui, qui assident ad compotum cum taleis et aliis necessariis. Et haec est dispositio quartae sedis.

D. Scriptor Magistri Thomae nunquid sedem habet cum aliis scriptoribus sed super alios ?

M. Sedem quidem habet non cum aliis sed super alios.

D. Quare sic ?

M. Cum enim sic dispositae essent sedes ab initio, ut scriptor thesaurarii ad latus suum resideret, ne quid scriberetur, quod oculum ejus effugeret ; et item scriptor cancellariae ad latus scriptoris thesaurarii, ut fideliter exciperet quod ille praescribebat ; et item clericus cancellarii necessario proximus esset illi scriptori, ne posset errare ; non superfuit locus in quo scriptor ille resideret in serie scanni, sed datus est ei locus in eminenti, ut prospiciat et immineat scriptori thesaurarii qui primus scribit, et ab ipso quod oportet excipiat.

D. Huic oculi lyncei necessarii essent, ne erraret; periculosus enim in hiis error dicitur.

M. Licet erret interdum in excipiendo, quia remotus est; tamen dum rotuli corriguntur facta omnium trium collatione, facile erit errata corrigere.

D. Satis hactenus dictum est de ordine sedentium. Nunc de eorum officiis, si placet, exsequere, incipiens a laeva praesidentis.

Quid ad Cancellarium.

M. Cancellarius in ordine illo primus est: et sicut in curia sic ad scaccarium magnus est: adeo ut sine ipsius consensu vel consilio nil magnum fiat, vel fieri debeat. Verum hoc habet officium dum residet ad scaccarium; ad ipsum pertinet custodia sigilli regii, quod est in thesauro, sed inde non recedit nisi cum praecepto Justitiae ab inferiore ad superius scaccarium a thesaurario vel camerario defertur, ad explenda solum negotia scaccarii. Quibus peractis in loculum mittitur, et loculus a cancellario consignatur, et sic thesaurario traditur custodiendus. Item, cum necesse fuerit, signatus sub omnium oculis cancellario offertur; nunquam ab ipso, vel ab alio alias offerendus. Item ad ipsum pertinet rotuli qui est de cancellaria custodia per suppositam personam; et sicut viris magnis visum est, de omni scriptura rotuli cancellarius aeque tenetur ut thesaurarius, excepto duntaxat de hoc, quod scribitur ' in thesauro ' receptum: licet enim non praescribat ut thesaurarius, conscribit tamen, et si ille erraverit, licet ipsi vel clerico ejus thesaurarium cum modestia corripere, et quid debeat suggerere. Quod si thesaurarius perseveraverit, et mutare noluerit, poterit eum, si de parte sua confidit tantum, coram baronibus arguere, ut ab eis quid fieri debeat judicetur.

D. Verisimile etiam videtur custodem tertii rotuli eadem scripturae lege constringi.

M. Non est verisimile tantum sed verum: par enim est auctoritas illis duobus rotulis ratione scripturae; quia sic placuit ejus auctori.

Quid ad Constabularium.

Constabularii officium est ad scaccarium, ut in brevibus regis de exitu thesauri vel de aliquibus computandis, hiis qui compotum faciunt simul cum praesidente testis existat. In omnibus enim hujusmodi brevibus ex antiqua institutione

duos oportet conscribi testes. Item ejus officium est ut, cum ad scaccarium stipendiarii regis venerint pro stipendiis suis, sive sint residentes in castris regis sive non, assumpto secum clerico constabulariae, cujus est terminos eorum nosse, et marescallo scaccarii, computet eorum liberationes, et de retractis fidem suscipiat, et residuum solvi faciat. Omnis enim liberatio quorumcunque, sive accipitrariorum sive falconariorum sive bernariorum, ad officium ejus spectat, si praesens fuerit; nisi forte dominus rex ad idem aliquem prius assignaverit: quia constabularius a rege non facile potest avelli, propter majora et magis urgentia. Notandum vero quod marescallus scaccarii de liberationibus residentium militum percipit quod ad eum pertinet ratione officii sui; de commeantibus autem non. Item huic cum aliis magnis commune est, ut nihil magnum eo inconsulto fieri debeat.

Quid ad Camerarios.

Camerariorum officium annexum est officio thesaurarii, quia uno et eodem praetextu honoris vel dispendii militare noscuntur; et est eis idem velle et idem nolle ad honorem regis, adeo ut quod ab uno factum fuerit, a nullo eorum dicatur infectum. Thesaurarius enim pro se et pro eis suscipit compotos, et secundum qualitates exactorum verba ministrat in scripturam rotuli, in quibus omnibus pari jure societatis obligantur, et sic de aliis quae vel ab hoc, vel ab hiis, salva fide domini regis, fiunt, sive in scriptis, sive in receptis, sive in taleis, sive in expensis.

Quid ad Marescallum.

Marescalli cura est taleas debitorum quas vicecomes reddiderit, quae tamen annotantur in rotulo, mittere seorsum in forulo suo: brevia quoque regia de computandis, vel perdonandis, vel dandis, hiis quae exiguntur a vicecomite per summonitionem. Illi vero forulo superscriptio comitatus, cujus haec sunt, apponitur, et singulis comitatibus singulos oportet forulos, a vicecomite qui computat, marescallo ministrari.

D. Est hic aliquid quod me movet.

M. Satis praesensi. Sustine tamen modicum. Plana enim erunt omnia ex consequentibus. Item si quis debitor non satisfaciens de summonitione meruerit comprehendi, huic traditur servandus, et soluto scaccario illius diei, si voluerit, mittet

eum in carcerem custodiae publicae, non tamen vinculabitur vel in ima trudetur, sed seorsum vel supra carcerem ; licet enim solvendo non sit, tamen ob hoc non meruit cum sceleratis deputari ; ita tamen si miles non fuerit ; de militibus namque pro pecunia retentis, illustris regis constitutio est, quae infra annotabitur in agendis vicecomitis. Item ad hunc spectat ut, peracto compoto vicecomitis, vel custodis, vel cujuscunque personae quae ad compotum residet, fidem ab ipso suscipiat in publico, quod legitimum compotum secundum conscientiam suam fecerit. Si vero vicecomes, vel qui computavit, aliquo debito tenetur, addet quod a scaccario, hoc est, a leugata villae, in qua est, non discedet, nisi ipsa die rediturus, sine licentia baronum. Item hic factas summonitiones contra terminum alterius scaccarii a latore sigilli regii signatas sub numero suscipiet, et hostiario superioris scaccarii per manum suam distribuet, per Angliam deferendas. Sic habes eorum, qui in primo scanno resident, officia distincta. . . .

Quid ad Thesaurarium.

M. Officium thesaurarii, vel cura vel sollicitudo ipsius vix explicari posset verbis, etiamsi esset mihi calamus scribae velociter scribentis. In omnibus enim et per omnia, quae vel in inferiori scaccario vel in superiori geruntur, ipsius sollicita diligentia necessaria est. Ex praedictis tamen magna ex parte constare potest, in quibus amplior sit ejus cura, adeo ut ab hiis avelli non possit manente scaccario ; in recipiendis scilicet compotis vicecomitum, et in scriptura rotuli. Ipse namque ministrat verba secundum qualitatem negotiorum in scripturam rotuli sui, a quo postmodum illud idem excipitur ab aliis rotulis, sicut supra dictum est ; et cavendum est ipsi, ne vel in numero, vel in causa, vel in persona sit error, ne absolvatur qui quietus non est, vel rursus conveniatur qui meruit absolvi. Tanta namque rotuli ejus auctoritas est, ut nulli liceat ei contradicere vel mutare ; nisi forte tam manifestus error fuerit, ut omnibus pateat : neque tunc nisi de communi consilio omnium baronum mutari debet, et ipsis praesentibus cum adhuc scilicet scaccarium illius diei perseverat : scripturam vero rotuli praeterito anno factam, vel etiam hujus anni exstantis, post solutum scaccarium nulli mutare licet nisi regi, cui super hiis licent quaecunque libent. Item ad eum spectat, ut ad omnia magna negotia cum superioribus assumatur, et nil eum lateat.

Quid ad Scriptorem Thesaurarii.

Scriptoris qui proximus est thesaurario officium est praeparare rotulos ad scripturam ex pellibus ovinis, non sine causa. Longitudo autem eorum est quanta surgit ex duabus membranis ; non tamen quibuslibet, sed magnis, ad hoc opus ex industria procuratis : latitudo vero paulo plus una expansa et semis. Regulatis igitur rotulis a summo pene usque deorsum, et ex utraque parte, lineis a se decenter distantibus, praenotantur in summo rotuli comitatus et bailliae, de quibus infra compotus redditur : facto vero modico intervallo quasi trium vel quatuor digitorum, praescribitur in medio lineae nomen comitatus de quo primo loco agendum est. Deinde in capite sequentis lineae nomen vicecomitis depingitur, subsequente hoc tenore verborum ; ' Ille vel ille vicecomes reddit compotum de firma illius vel illius comitatus.' Deinde paulo post in eadem linea scribitur, ' in thesauro,' nec apponitur aliud nisi consummato compoto, propter urgentem causam, quae in agendis vicecomitum manifesta est. Deinde in capite sequentis lineae, quid in eleemosyna et decimis constitutis, quid etiam in liberatione, de firma comitatus expendatur, exprimitur. Post haec in capite lineae inferioris in terris datis annotantur ea quae regum munificentia contulit ecclesiis, vel hiis qui eis militarunt, in fundis suis qui coronae annominantur, quibusdam blanca, quibusdam numero.

D. Movet me quod dicis quosdam fundos dari blancos, quosdam numero.

M. Prosequamur ad praesens de scriptoris officio ; et in agendis vicecomitis super hoc, si libet, interroga. Post terras datas, facto intervallo unius lineae ut videantur etiam ipsa sui ratione sejuncta, annotantur ea quae jussa sunt de firma expendi per brevia regis ; quia haec constituta non sunt, sed casualia ; quaedam etiam, quae sine brevibus computantur per consuetudinem scaccarii, de quibus infra dicetur : et sic terminatur compotus de corpore comitatus. Post hoc, facto intervallo quasi sex vel septem linearum, fit compotus de purpresturis et escaetis sub his verbis ; ' Idem vicecomes reddit compotum de firma purpresturarum et escaetarum.' Sed et de omnibus firmis maneriorum et de censu nemorum, quae annuatim debentur et solvuntur, post haec suo ordine compoti collocantur, exceptis quibusdam civitatibus et villis et bailliis, quarum majores compoti sunt ; quia constitutas

habent eleemosynas vel liberationes, et terras datas ; et ad custodes earum propriae summonitiones de debitis regis diriguntur. De hiis autem compoti fiunt post consummatum omnino compotum de comitatibus in quibus sunt. Qualia sunt Lincolnia, Wintonia, Mienes, Berchamstede, Colecestria, pleraque alia.

D. Miror dixisse te quosdam redditus constitutos dici firmas, quosdam vero census.

M. Firmae maneriorum sunt, census autem nemorum tantum. Quae enim ex maneriis proveniunt, quia per agriculturam quolibet anno renovantur et redeunt, et praeter haec in ipsis certi sunt constituti redditus consuetudinum jure perpetuo, merito firma et immutabilia nominantur. Quae vero ex nemoribus, quae quotidie succiduntur et pereunt, annua lege debentur,—quorum non est tam firmus vel immobilis quaestus, sed est in eis ascensus et descensus, licet non annuus, frequens tamen,—census dicuntur : et sic per aphaeresim redditus hos censeri dicunt. Sunt tamen qui credunt, censum dici quae a singulis hominibus solvuntur ; firma vero quae ex hiis surgit ; ut sit firma nomen collectivum, sicut turba : ob hoc igitur sicut creditur, sic censetur, ut annuum indicet, et firmum non esse designet. Post haec constituta, facto iterum intervallo, fit compotus de debitis, super quibus summonitus est vicecomes ; praetitulatis tamen nominibus illorum judicum quorum haec sunt. Ultimo vero de catallis fugitivorum, vel mutilatorum pro excessibus suis. Et hiis expletis, compotus illius vicecomitatus terminatur. Cavendum autem est scriptori, ne aliquid motu animi sui scribat in rotulo, nisi quod thesaurario dictante didicerit. Quod si forte per negligentiam vel alium quemlibet casum, contigerit eum errare in scriptura rotuli, vel in nomine, vel in numero, vel in causa, in quibus vis major scripturae consistit ; non praesumat abradere, sed linea subtili subducta cancellet, et scribat in serie quod oportet : habet enim rotuli scriptura hoc commune cum cartis et aliis scriptis patentibus, quod abradi non debet : et ob hoc cautum est ut de pellibus ovinis fiant ; quia non facile nisi manifesto vitio rasurae cedunt.

D. Scriptor iste de proprio an de fisco rotulos invenit ?

M. In termino iste Sancti Michaelis v. solidos de fisco recipit, et scriptor cancellariae alios nihilominus v. ; ex quibus ad utrumque rotulum, et ad summonitiones et receptas inferioris scaccarii membranas inveniunt. . . .

VI. *Quid ad Clericum Cancellarii.*

Clericus cancellarii qui huic proximus est, licet non proprio sed alieno nomine militet, magnis tamen occupatur, et in multa distrahitur : adeo ut ab ipso initio compotorum usque ad finem inde avelli non possit ; nisi forte dum sibi propitius est ; substituto sibi interim discreto vicario. Huic enim prima cura est post thesaurarium in hiis omnibus quae illic geruntur ; maxime tamen circa rotulorum ac brevium scripturam ; in hiis enim praecipue versatur ; nam ne forte sui calamus scriptoris aberret prospicit hic, alium sequitur dum passibus aequis. Item hic intuetur diligenter alterius anni rotulum sibi propositum, donec a vicecomite satisfactum fuerit de debitis hiis quae illic annotantur, et de quibus summonetur. Item residente vicecomite ad compotum, computatis et scripto deputatis hiis quae constituta sunt in comitatu, breve summonitionis, cui regis sigillum appensum est, suscipit a vicecomite, et de hiis debitis quae illic scripta sunt urget vicecomitem, pronuncians in publicum et dicens, ' redde de hoc tantum, et de illo tantum.' Debita vero quae solvuntur in integrum, et de quibus satisfit, cancellet idem clericus linea ducta per medium ; ut sit distinctio per hoc etiam inter soluta et solvenda. Hic etiam custodit contrabrevia factorum ad scaccarium. Hic etiam summonitiones factas, ut praedictum est, corrigit et sigillat ; et est ei labor infinitus, atque post thesaurarium maximus.

D. Utilis hic esset magis Argus, quam Polyphemus. . . .

Quid ad Brunum.

Porro in capite quarti sedilis quod opponitur justiciariis, residet Magister Thomas cognomento Brunus. Hujus ad scaccarium non vilis est auctoritas. Magnum enim et validum fidei ejus et discretionis est argumentum, quod a tam excellentis ingenii principe electus est, ut praeter antiquam consuetudinem tertium habeat rotulum, in quo regni jura regisque secreta conscribat, et eundem penes se reservans quocunque voluerit deferat. Habet etiam clericum suum in inferiore scaccario, qui juxta clericum thesaurarii residens, liberam habet facultatem scribendi quae recipiuntur et expenduntur in thesauro.

D. Nunquid principi cognita est eo usque fides ejus atque

discretio, quod ad hoc opus merito non aestimetur alius ad illum ?

M. Magnus hic erat in magni regis Siculi curia, consiliis providus, et in regis secretis pene praecipuus. Surrexit interea rex novus qui ignorabat illum, qui prava habens latera patrem persequebatur in suis. Compulsus est igitur vir iste, mutatis rebus prosperis, vitae suae consulere, et licet pateret ei cum summo honore accessus ad regna plurima, tamen frequenter vocatus ab illustri rege Anglorum Henrico, cui fama veritate ipsa minor est, praeelegit ad natale solum et successorium ac singularem dominum suum accedere. Susceptus igitur ab ipso sicut utrumque decuit, quia apud Siculum magnis intenderat, hic etiam ad magna deputatur negotia scaccarii. Sic igitur et locum et dignitatis officium adeptus est ; ad quaelibet etiam scaccarii magna negotia cum magnis assumitur. Sic habes omnium qui ad majus scaccarium ex officio resident jura distincta. Consequens autem est, ni fallor, ut quae sint eorum dignitates ratione sessionis ad scaccarium prosequamur.

D. Immo, si placet, de officio militis quem argentarium dicis, necnon de fusoris officio dicendum est ; quia cum sibi videantur annexa, et ad majus scaccarium pertinentia, hucusque dilata sunt.

M. Cerno quod te promissorum memoria non praeterit, ex quo spes certa concipitur, quod te jam dictis non fraudabit oblivio. Credebam sane de officiis tibi fuisse satisfactum, quia de residentibus ad scaccarium neminem praetermiseram. Sed hii de quibus commemoras certas non habent sibi deputatas sedes, immo pro imperio praesidentis vel thesaurarii suum explent officium.

Quid ad Militem Argentarium.

Porro miles argentarius ab inferiori scaccario ad superius defert loculum examinandi argenti, cujus supra meminimus ; quem cum intulerit signatum sigillo vicecomitis, sub omnium oculis effundit in scaccario quadraginta quatuor solidos, quos de acervo sumptos prius signaverat, factaque commixtione eorundem, ut ponderi respondeant, mittit in unum vasculum trutinae libram ponderis, in alterum vero de denariis quod oportuerit, quo facto numerat eosdem, ut ex numero constare possit, si legitimi ponderis sint ; cujuscunque vero ponderis inventi fuerint, seorsum mittit in ciphum libram unam, hoc est xx. solidos ex quibus examen fiat ; reliquos vero xxiiii.

solidos mittit in loculum. Item duo denarii praeter libram examinandam dantur fusori, non de fisco sed de parte vicecomitis, quasi in praemium sui laboris. Tunc eliguntur a praesidente, vel a thesaurario si ille absens fuerit, alii duo vicecomites, ut simul cum argentario necnon et vicecomite cujus examen faciendum est, procedant ad ignem; ubi fusor ante praemonitus praeparatis necessariis eorum praestolatur adventum: ibi iterum praesente fusore et hiis qui a baronibus missi sunt, diligenter computantur, et fusori traduntur. . . .

VII. *A quibus vel ad quid instituta fuerit argenti examinatio.*

D. A quibus vel ob quam rem instituta fuit examinatio haec vel combustio?

M. Ut de his tibi constare possit, paulo altius oriendum est. Sicut traditum habemus a patribus, in primitivo regni statu post conquisitionem, regibus de fundis suis non auri vel argenti pondera sed sola victualia solvebantur; ex quibus in usus quotidianos domus regiae necessaria ministrabantur. Et noverant, qui ad haec deputati fuerant, quantum de singulis fundis proveniebat. Ceterum ad stipendia vel donativa militum et alia necessaria, de placitis regni vel conventionibus, et ex civitatibus vel castellis a quibus agricultura non exercebatur, pecunia numerata succrescebat. Toto igitur regis Willelmi primi tempore perseveravit haec institutio, usque ad tempora regis Henrici filii ejus; adeo ut viderim ego ipse quosdam, qui victualia statutis temporibus de fundis regiis ad curiam deferri viderint: certumque habebant officiales domus regiae a quibus comitatibus triticum, a quibus diversae species carnium vel equorum pabula, vel alia quaeque necessaria, debebantur. Hiis vero solutis secundum constitutum modum cujusque rei, regii officiales computabant vicecomiti redigentes in summam denariorum: pro mensura scilicet tritici ad panem c. hominum, solidum unum; pro corpore bovis pascualis, solidum unum; pro ariete vel ove, iiii. d.; pro praebenda xx. equorum, similiter iiii. d. Succedente vero tempore, cum idem rex in transmarinis et remotis partibus sedandis tumultibus bellicis operam daret, contigit ut fieret sibi summa necessaria ad haec explenda numerata pecunia. Confluebat interea ad regis curiam querula multitudo colonorum, vel, quod gravius sibi videbatur, praetereunti frequenter occursabat, oblatis vomeribus in signum deficientis agriculturae;

innumeris enim molestiis premebantur occasione victualium, quae per plurimas regni partes a sedibus propriis deferebant. Horum igitur querelis inclinatus rex, diffinito magnorum consilio, destinavit per regnum quos ad id prudentiores et discretiores cognoverat, qui circueuntes et oculata fide fundos singulos perlustrantes, habita aestimatione victualium, quae de hiis solvebantur, redegerunt in summam denariorum. De summa vero summarum quae ex omnibus fundis surgebat in uno comitatu, constituerunt vicecomitem illius comitatus ad scaccarium teneri ; addentes, ut ad scalam solveret, hoc est propter quamlibet numeratam libram vi. d. Rati sunt enim tractu temporis de facili posse fieri, ut moneta tunc fortis a suo statu decideret. Nec eos fefellit opinio ; unde coacti sunt constituere ut firma maneriorum non solum ad scalam, sed ad pensum solveretur ; quod perfici non poterat nisi longe pluribus appositis. Servabatur per plures annos ad scaccarium lex hujus solutionis : unde frequenter in veteribus annalibus rotulis regis illius invenies scriptum, 'in thesauro c. libras ad scalam ;' vel, 'in thesauro c. libras ad pensum.' Surrexit interea vir prudens, consiliis providus, sermone discretus, et ad maxima quaeque negotia per Dei gratiam repente praecipuus ; diceres in eo completum quod scriptum est, ' nescit tarda molimina Spiritus Sancti gratia.' Hic ab eodem rege ad curiam vocatus, licet ignotus non tamen ignobilis suo perdocuit exemplo

Paupertas tenuis quam sit foecunda virorum !

Hic igitur, succrescente in eum principis ac cleri populique favore, Sarisberiensis episcopus factus, maximis in regno fungebatur honoribus, et de scaccario plurimam habuit scientiam ; adeo ut non sit ambiguum sed ex ipsis rotulis manifestum, plurimum sub eo floruisse ; de cujus stillicidiis nos quoque modicum id quod habemus per traducem accepimus. Super hoc ad praesens multa loqui supersedeo ; quia pro qualitate sui status nobilissimae mentis indicem superstitem sibi memoriam dereliquit. Hic postmodum ex mandato principis accessit ad scaccarium ; ubi cum per aliquot annos persedisset, comperit hoc solutionis genere non plene fisco satisfieri : licet enim in numero et pondere videretur satisfactum, non tamen in materia : consequens enim non erat, ut si pro libra una numeratos xx. solidos etiam librae ponderis respondentes solvisset, consequenter libram solvisset argenteam : poterat enim cupro vel quovis aere mixtam solvisse, cum non fieret

examinatio. Ut igitur regiae simul et publicae provideretur utilitati, habito super hoc ipso regis consilio, constitutum est ut fieret ordine praedicto firmae combustio vel examinatio.

D. Quomodo publicae ?

M. Sentiens enim vicecomes se praegravari per combustionem deterioris monetae, cum firmam est soluturus, sollicitam adhibet diligentiam ut monetarii sub eo constituti legis constitutae fines non excedant ; quos cum deprehenderit, sic puniuntur, ut eorum exemplo ceteri terreantur.

D. Nunquid de omnibus comitatibus firma blanca solvi debet, vel ex omnibus comitatibus examinatio fieri ?

M. Non ; sed qui de antiquo jure coronae regiae annominantur sic solvunt. Qui vero per incidentes aliquos casus infiscantur, solo numero satisfaciunt ; quales sunt Salopscir, Sudsex, Norhumberland et Cumberland. Liberum est etiam vicecomiti ut pro firma blanca solvat examinati argenti pondera ; et sic effugiat jacturam combustionis ; sic tamen ut fusor regis eadem suscipienda discernat. Habes igitur quod petisti, a quibus scilicet et ob quam causam instituta fuerit examinatio. . . .

VIII. *Quae sunt jura et dignitates residentium ad Scaccarium ratione sessionis.*

M. . . . Movet te, nec immerito, quod me diu movit ; atque (ut credo) nondum patuit omnibus haec scripturae ratio : unde licet non sit magnum quod petis, attamen est insolitum, et videtur absurdum, ut per breve regis dicatur dimissum quod sine brevi semper est dimittendum. Ea propter de hac ipsa sollicitus fui circa dominum Eliensem, virum utique hujus officii peritissimum, cujus memoria in benedictione sit in aeternum. Hic illustris illius Anglorum regis Henrici primi thesaurarius, et nepos Sarisberiensis cujus supra meminimus, incomparabilem suis temporibus habuit scaccarii scientiam : maximus etiam existens in hiis quae ad sui status dignitatem pertinebant, celebrem sui nominis famam fecit, adeo ut pene solus in regno sic vixerit et sic decesserit ut gloriam ejus invida lingua denigrare non audeat. Hic etiam ab illustri rege Henrico secundo frequenter rogatus, scaccarii scientiam continuata per multos annos bellica tempestate pene prorsus abolitam reformavit, et totius descriptionis ejus formam, velut alter Esdras bibliothecae sedulus reparator, renovavit. Credidit sane vir prudens satius esse, constitutas ab antiquis leges

posteris innotescere, quam sua taciturnitate ut novae conderentur efficere; vix enim modernitas in quaestu pecuniae mitiora prioribus jura dictavit. Ab hoc igitur super hoc hujusmodi responsum accepi; 'frater, qui aures audiendi avidas habet, facile detractoris linguam inveniet; etiam is qui non habet non facile eandem effugiet. Accessit itaque ad regem Henricum primum vir aliquis habens sibila serpentis, dicens ei; "barones vestri qui ad scaccarium resident ut quid quae de terris eorum exsurgunt non solvunt? Cum quidam constitutas habeant ad scaccarium liberationes pro sessione sua; quidam etiam pro officio suo fundos habent et fructus eorum; hinc ergo gravis jactura fisco provenit." Cum igitur ille principis emolumentum allegans frequenter instaret, mentem ejus vix tandem verbum istud eo usque possedit, ut omnia constituta ab omnibus solvi praeciperet, nec aliquid alicui dimitti, nisi quis super hoc expressum ejus obtinuisset mandatum: factumque est ita. Succedente vero tempore, cum recordaretur princeps consilii Achitophel, poenituit eum acquievisse. Decrevit autem omnibus illic ministrantibus omnia praedicta computari, nihil ducens jacturam modici aeris respectu magni honoris. Destinavit itaque breve suum ad scaccarium, ut assidentes illic ab hiis liberi essent jure perpetuo. Ab hoc igitur brevi ex tunc et modo dicitur, "in perdonis per breve regis;" sicque factum est, ut quod indultum est patribus etiam nunc perseveret in posteris.' . . .

IX. *Quid Scutagium, et quare sic dictum est.*

M. Fit interdum, ut imminente vel insurgente in regnum hostium machinatione decernat rex de singulis feodis militum summam aliquam solvi, marcam scilicet vel libram unam; unde militibus stipendia vel donativa succedant. Mavult enim princeps stipendiarios quam domesticos bellicis opponere casibus. Haec itaque summa, quia nomine scutorum solvitur, scutagium nuncupatur. Ab hac autem quieti sunt ad scaccarium residentes.

X. *Quid Murdrum, et quare sic dictum.*

Porro murdrum proprie dicitur mors alicujus occulta, cujus interfector ignoratur. Murdrum enim idem est quod absconditum vel occultum. In primitivo itaque regni statu post conquisitionem, qui relicti fuerant de Anglicis subactis in

suspectam et exosam sibi Normannorum gentem latenter ponebant insidias, et passim ipsos in nemoribus et locis remotis, nacta opportunitate, clanculo jugulabant : in quorum ultione cum reges et eorum ministri per aliquot annos exquisitis tormentorum generibus in Anglicos desaevirent, nec tamen sic omnino desisterent, in hoc tandem devolutum est consilium, ut centuriata, quam hundredum dicunt, in qua sic interfectus Normannus inveniebatur, quod mortis ejus minister non exstabat, nec per fugam quis esset patebat, in summam grandem argenti examinati fisco condemnaretur, quaedam scilicet in xxxvi., quaedam in xliiii. libris, secundum locorum diversitatem et interfectionis frequentiam ; quod ideo factum dicunt, ut scilicet poena generaliter inflicta praetereuntium indemnitatem procuraret, et festinaret quisque tantum punire delictum, vel offerre judicio per quem tam enormis jactura totam laedebat viciniam. Ab horum, ut praediximus, solutione sedentes ad tabulam liberos noveras.

D. Nunquid pro murdro debet imputari clandestina mors Anglici sicut Normanni ?

M. A prima institutione non debet, sicut audisti : sed jam cohabitantibus Anglicis et Normannis, et alterutrum uxores ducentibus vel nubentibus, sic permixtae sunt nationes, ut vix decerni possit hodie, de liberis loquor, quis Anglicus quis Normannus sit genere ; exceptis duntaxat ascriptitiis qui villani dicuntur, quibus non est liberum obstantibus dominis suis a sui status conditione discedere. Ea propter paene quicunque sic hodie occisus reperitur, ut murdrum punitur, exceptis hiis de quibus certa sunt ut diximus servilis conditionis indicia.

D. Miror singularis excellentiae principem et acerrimae virtutis hominem, in subactam et sibi suspectam Anglorum gentem hac usum misericordia, ut non solum colonos per quos agricultura posset exerceri indempnes servaret, verum ipsis regni majoribus fundos suos et amplas possessiones relinqueret.

M. Licet haec ad suscepta negotia quibus debitor factus sum non attinent, tamen quae super hiis ab ipsis indigenis accepi, gratis exponam. Post regni conquisitionem, post justam rebellium subversionem, cum rex ipse regisque proceres loca nova perlustrarent, facta est inquisitio diligens, qui fuerint qui contra regem in bello dimicantes per fugam se salvaverint. Hiis omnibus et item haeredibus eorum qui in bello occubuerunt, spes omnis terrarum et fundorum atque reddituum quos ante possederant, praeclusa est : magnum namque

reputabant frui vitae beneficio sub inimicis. Verum qui vocati ad bellum necdum convenerant, vel familiaribus seu quibuslibet necessariis occupati negotiis non interfuerant, cum tractu temporis devotis obsequiis gratiam dominorum possedissent, sine spe successionis sibi tantum pro voluptate tamen dominorum possidere coeperunt. Succedente vero tempore cum dominis suis odiosi passim a possessionibus pellerentur, nec esset qui ablata restitueret, communis indigenarum ad regem pervenit querimonia, quasi sic omnibus exosi et rebus spoliati ad alienigenas transire cogerentur. Communicato tandem super hiis consilio, decretum est, ut quod a dominis suis exigentibus meritis interveniente pactione legitima poterant obtinere, illis inviolabili jure concederentur : ceterum autem nomine successionis a temporibus subactae gentis nihil sibi vendicarent. Quod quidem quam discreta consideratione cautum sit, manifestum est, praesertim cum sic modis omnibus ut sibi consulerent, de cetero studere tenerentur devotis obsequiis dominorum suorum gratiam emercari. Sic igitur quisquis de gente subacta fundos vel aliquid hujusmodi possidet, non quod ratione successionis deberi sibi videbatur, adeptus est ; sed quod solummodo meritis suis exigentibus, vel aliqua pactione interveniente, obtinuit.

D. Quid sit centuriata vel hundredum non satis novi.

M. Sustine modicum : scies postea loco suo, hoc est in titulo de libro judiciario. Nunc prosequamur de Danegeldo et ut ratio nominis tibi constet, paulisper adverte.

XI. *Quid Danegeldum, et quare sic dictum.*

Insula nostra suis contenta bonis peregrinis
Non eget. Hanc igitur merito dixere priores,
Divitiisque sinum deliciisque larem.

Propter haec innumeras ab exteris injurias passa est ; quia scriptum est : ' furem preciosa signata sollicitant.' Circumjacentium enim insularum praedones irruptione facta maritima depopulantes, aurum, argentum, et quaeque pretiosa tollebant. Verum cum rex et indigenae bellicis apparatibus instructi in suae gentis defensionem instarent, illi fugas aggrediebantur aequoreas. Inter hos itaque pene praecipua et semper pronior ad nocendum erat bellicosa illa et populosa gens Dacorum ; qui praeter communem raptorum avaritiam acrius instabant, quia aliquid sibi de antiquo jure in ejusdem regni

dominatione vendicabant, sicut Britonum plenius narrat historia. Ad hos igitur arcendos a regibus Anglicis statutum est, ut de singulis hidis regni jure quodam perpetuo duo solidi argenti solverentur in usus virorum fortium, qui perlustrantes et jugiter excubantes maritima impetum hostium reprimerent. Quia igitur principaliter pro Dacis institutus est hic redditus, Danegeldum vel Danegeldus dicitur. Hic igitur annua lege, sicut dictum est, sub indigenis regibus solvebatur, usque ad tempora regis Willelmi primi de gente et genere Normannorum. Ipso namque regnante, tam Daci quam ceteri terrae marisque praedones hostiles cohibebant incursus; scientes verum esse quod scriptum est; 'cum fortis armatus custodit atrium suum, in pace sunt ea quae possidet.' Noverant autem etiam quod acerrimae virtutis homines impunitas non ferunt injurias. Cum ergo diu siluisset terra sub ejusdem regis imperio, noluit hoc ut annuum solvi, quod fuerat urgente necessitate bellicae tempestatis exactum, nec tamen omnino propter inopinatos casus dimitti. Raro igitur temporibus illius vel successorum ipsius solutus est: hoc est cum ab exteris gentibus bella vel opiniones bellorum insurgebant. Verum quocunque tempore solvatur, ab ipso liberi sunt qui assident ad scaccarium, sicut dictum est. Vicecomites quoque, licet inter barones scaccarii non computantur, ab hoc quieti sunt de dominiis suis, propter laboriosam ejusdem census collectam. Noveris autem dominica cujuslibet haec dici, quae propriis sumptibus vel laboribus excoluntur; et item quae ab ascriptitiis suis suo nomine possidentur. Quia enim ascriptitii de regni jure non solum ab hiis quae modo possident ad alia loca a dominis suis transferri possunt: verum etiam ipsi quoque licite venduntur vel quomodo libet distrahuntur; merito tam ipsi quam terrae, quas excolunt ut dominis suis serviant, dominia reputantur. . . . Verum quicquid super his dixerimus allegantes pro hac libertate vel contra eam, certum habeas quod nihil in hac parte certum dicimus, nisi quod principis auctoritas decreverit observandum. Sane forestarum ratio, poena quoque vel absolutio delinquentium in eas, sive pecuniaria fuerit sive corporalis, seorsum ab aliis regni judiciis secernitur, et solius regis arbitrio vel cujuslibet familiaris ad hoc specialiter deputati subjicitur. Legibus quidem propriis subsistit, quas non communi regni jure, sed voluntaria principum institutione subnixas dicunt; adeo ut quod per legem ejus factum fuerit, non justum absolute, sed justum

secundum legem forestae dicatur. In forestis etiam penetralia regum sunt, et eorum maximae deliciae ; ad has enim venandi causa curis quandoque depositis accedunt, ut modica quiete recreentur. Illic seriis simul et innatis curiae tumultibus omissis, in naturalis libertatis gratiam paulisper respirant ; unde fit, ut delinquentes in eam soli regiae subjaceant animadversioni.

D. Ab ungue primo didici, quod prave prudentis est ignorantiam pati malle, quam dictorum causas inquirere ; ut ergo de praedictis plenius constet, aperire non differas quid foresta sit, et quid essartum.

XII. *Quid Regis Foresta, et quae ratio hujus nominis.*

M. Foresta regis est tuta ferarum mansio ; non quarumlibet sed sylvestrium ; non quibuslibet in locis sed certis et ad hoc idoneis ; unde foresta dicitur, *e* mutata in *o*, quasi feresta, hoc est ferarum statio.

D. Numquid in singulis comitatibus foresta regis est ?

M. Non ; sed in nemorosis, ubi et ferarum latibula sint et uberrima pascua ; nec interest cujus sint nemora ; sive enim sint regis, sive regni procerum, liberos tamen et indempnes habent ferae circumquaque discursus.

XIII. *Quid Essartum, et quare sic dictum.*

Essarta vero vulgo dicuntur, quae apud Isidorum occationes nominantur ; quando scilicet forestae nemora vel dumeta quaelibet pascuis et latibulis opportuna succiduntur ; quibus succisis et radicitus avulsis, terra subvertitur et excolitur. Quod si nemora sic excisa sint, ut subsistens quis in vix exstanti succisae quercus vel alterius arboris stipiti, circumspiciens v. succisas viderit, vastum reputant, hoc est, vastatum per sincopam sic dictum. Excessus autem talis etiam in propriis cujusque nemoribus factus, adeo gravis dicitur, ut nunquam inde per sessionem scaccarii liberari debeat ; sed magis juxta sui status possibilitatem pecuniariter puniri. Hactenus de dignitatibus residentium ad scaccarium, quod brevitas succincta permisit, et menti meae repente se obtulit, utcunque figuraliter exposui. Ceterum regum munificentiae terminum in hiis quem non transgrediantur non constitui ; proni etiam sunt omnes propter gratiam sibi creditam in suae dignitatis gloriam promovendam, hii praesertim qui recte

sapiunt : at ille maxime mundanorum principum maximus illustris Anglorum rex Henricus secundus in augendis dignitatibus sibi militantium semper aspirat ; sciens pro certo, quod indulta suis beneficia nominis sui gloriam immortalis famae titulis emercantur. Nunc igitur ad alia currentem calamum convertamus.

D. Consequens est, ni fallor, sicut ex praedictis videor comperisse, ut de regis sigillo, et libro judiciario prosequaris, quorum primum si bene memini in thesauro servatur et inde non recedit.

M. Immo et utrumque, sed et pleraque alia. . . .

XV. *Qui sit usus Sigilli Regii quod est in Thesauro.*

Usus sigilli regii qualis esse debeat ex praemissis constare potest : hoc enim factae summonitiones et alia pertinentia dumtaxat ad scaccarium regis mandata signantur. Nec effertur alias ; sed sicut supra dictum est, a cancellario custoditur per vicarium. Expressam autem habet imaginem et inscriptionem cum deambulatorio curiae sigillo, ut par cognoscatur utrobique jubentis auctoritas, et reus similiter judicetur pro hoc ut pro illo, qui secus egerit.' Porro liber ille de quo quaeris sigilli regii comes est individuus in thesauro. Hujus institutionis causam ab Henrico quondam Wintoniensi episcopo sic accepi.

XVI. *Quid Liber Judiciarius, et ad quid compositus.*

Cum insignis ille subactor Angliae rex Willelmus, ejusdem pontificis sanguine propinquus, ulteriores insulae fines suo subjugasset imperio, et rebellium mentes terribilibus perdomuisset exemplis ; ne libera de cetero daretur erroris facultas, decrevit subjectum sibi populum juri scripto legibusque subjicere. Propositis igitur legibus Anglicanis secundum tripartitam earum distinctionem, hoc est Merchenelage, Denelage, Westsexenelage, quasdam reprobavit, quasdam autem approbans, illis transmarinas Neustriae leges, quae ad regni pacem tuendam efficacissimae videbantur, adjecit. Demum ne quid deesse videretur ad omnem totius providentiae summam, communicato consilio, discretissimos a latere suo destinavit viros per regnum in circuitu. Ab hiis itaque totius terrae descriptio diligens facta est, tam in nemoribus, quam in pascuis et pratis, nec non et agriculturis, et verbis communibus annotata in librum redacta est ; ut videlicet quilibet jure suo contentus, alienum non usurpet impune. Fit autem descriptio per comitatus,

per centuriatas, et per hidas, praenotato in ipso capite regis nomine, ac deinde seriatim aliorum procerum nominibus appositis secundum status sui dignitatem, qui videlicet de rege tenent in capite. Apponuntur autem singulis numeri secundum ordinem sic dispositis, per quos inferius in ipsa libri serie, quae ad eos pertinent, facilius occurrunt. Hic liber ab indigenis Domesdei nuncupatur, id est, dies judicii per metaphoram; sicut enim districti et terribilis examinis illius novissimi sententia nulla tergiversationis arte valet eludi, sic cum orta fuerit in regno contentio de hiis rebus quae illic annotantur, cum ventum fuerit ad librum, sententia ejus infatuari non potest vel impune declinari. Ob hoc nos eundem librum judiciarium nominavimus; non quod in eo de propositis aliquibus dubiis feratur sententia; sed quod ab eo sicut a praedicto judicio non licet ulla ratione discedere.

D. Quid comitatus, quid centuriata, vel quid sit hida, si placet edissere; alioquin plana non erunt quae praemissa sunt.

XVII. *Quid Hida, quid Centuriata, quid Comitatus, secundum vulgarem opinionem.*

M. Ruricolae melius hoc norunt. Verum sicut ab ipsis accepimus, hida a primitiva institutione ex centum acris constat: hundredus vero ex hidarum aliquot centenariis, sed non determinatis; quidam enim ex pluribus, quidam ex paucioribus hidis constat. Hinc hundredum in veteribus regum Anglorum privilegiis centuriatam nominari frequenter invenies. Comitatus autem eadem lege ex hundredis constant, hoc est quidam ex pluribus quidam ex paucioribus, secundum quod divisa est terra per viros discretos. Comitatus igitur a comite dicitur, vel comes a comitatu. Comes autem est qui tertiam portionem eorum quae de placitis proveniunt in quolibet comitatu percipit. Summa namque illa quae nomine firmae requiritur a vicecomite, tota non exsurgit ex fundorum redditibus, sed ex magna parte de placitis provenit; et horum tertiam partem comes percipit; qui ideo sic dici dicitur, quia fisco socius est et comes in percipiendis. Porro vicecomes dicitur eo quod vicem comitis suppleat in placitis illis, quibus comes ex suae dignitatis ratione participat.

D. Numquid ex singulis comitatibus comites ista percipiunt?

M. Nequaquam: sed hii tantum ista percipiunt, quibus regum munificentia, obsequii praestiti vel eximiae probitatis

intuitu, comites sibi creat, et ratione dignitatis illius haec conferenda decernit, quibusdam haereditarie, quibusdam personaliter. . . .

Liber Secundus.

I. *Fiunt autem summonitiones, ut Scaccarium fiat.*

Praecedente namque brevi summonitionis, quod regiae auctoritatis signatur imagine, convocantur ad locum nominatum qui necessarii sunt ; nec enim necesse habent accedere, nisi summonitione praemissa. Accedunt autem quidam ut sedeant et judicent, quidam ut solvant et judicentur. Sedent et judicant ex officio vel ex principis mandato barones quorum supra meminimus. Solvunt autem et judicantur vicecomites et alii plures in regno, quorum quidam voluntariis oblationibus, quidam necessariis solutionibus, obnoxii sunt, de quibus infra plenius dicemus in agendis vicecomitis. Horum itaque cum per omnes comitatus numerosa sit multitudo, oportet in ipsa citatione emissa de singulis seriatim exprimi, quantum in instanti termino solvi debeat, adjecta etiam causa ; ut sic dicatur, ' de illo habeas hanc vel illam summam, propter hanc vel hanc causam.' Quod si a residente ad compotum vicecomite requiratur aliquid de quovis debitore qui sit in comitatu suo, de quo tamen in summonitione nulla fuit mentio, non tenebitur respondere, sed magis excusabitur, quia non praecessit hujus rei summonitio. Ad hoc ergo summonitiones fiunt, ut firmae regis et debita multiplici ratione requirenda fisco proveniant. Verum sunt aliqua, quae per manum vicecomitis provenire necesse est, etiamsi nulla de hiis summonitio fiat ; sed haec magis casualia sunt quam constituta vel certa, sicut ex consequentibus liquebit.

Qualiter Summonitiones fiant.

Qualiter autem vel quo ordine fiant, primo dicendum est, ac demum ex quibus. Noveris autem quod, soluto scaccario termini illius quo fiunt summonitiones, excipiuntur a clericis thesaurarii debita regis per singulos comitatus a magno rotulo illius anni, et in brevioribus annotantur, simul cum causis ; quo facto secedunt hii in partem quos majores diximus, proposito comitatu quolibet, et de singulis debitoribus illius decernunt quantum summoneri debeat, habita consideratione secundum qualitatem personae, et secundum qualitatem

negotii et causae pro qua regi tenetur. Authenticus etiam annalis rotulus a quo debita excepta sunt, tenetur a thesaurario vel ejus clerico, ne forte fuerit in excipiendo quomodolibet erratum. Est etiam alius clericus, qui, quod illi taxaverint, in exceptis annotat studiose ; de quibus summonitio fit per haec verba ; ' H. rex Anglorum, illi vel illi vicecomiti, salutem. Vide sicut teipsum et omnia tua diligis, quod sis ad scaccarium ibi vel ibi, in crastino Sancti Michaelis, vel in crastino clausi Paschae, et habeas ibi tecum quicquid debes de veteri firma vel de nova, et nominatim haec debita subscripta ; de illo x. marcas pro hac causa,' et sic deinceps. Annotatis autem omnibus debitis illic seriatim cum causis, quae in majori annali rotulo continentur, proferuntur minores quique perambulantium judicum rotuli, ex quibus excipiuntur quae in singulis comitatibus domino regi debentur, labore et industria ipsorum ; et hiis taxatis a majoribus, in summonitionibus annotantur ; quibus per ordinem digestis, terminatur summonitio per haec verba : ' Et haec omnia tecum habeas in denariis et taleis et brevibus et quietantiis, vel capientur de firma tua ; teste illo vel illo, ibi ad scaccarium.' Fuerunt tamen qui crederent dicendum in denariis *vel* taleis *vel* brevibus *vel* quietantiis ; non intelligentes *vel* quandoque subdisjunctive poni. Superflua tamen est hujusmodi de verbis contentio, cum de eorum intellectu constiterit : sive enim dixeris ' in denariis vel brevibus vel quietantiis,' vel ' in denariis et brevibus et quietantiis,' idem est intellectus ; ut scilicet in hiis omnibus vel eorum aliquibus, satisfiat de hiis quae in summonitione continentur. Praeterea, quia novis morbis per nova remedia decet subveniri, additum fuit in summonitionibus hoc subscriptum, ex novella constitutione, hoc est post tempora regis Henrici primi : ' quod si forte de alicujus debito summonitus es, qui terram vel catalla non habet in baillia tua, et noveris in cujus baillia vel comitatu habuerit ; tu ipse vicecomiti illi vel ballivo per breve tuum hoc ipsum significes, deferente illud aliquo a te misso, qui ei breve tuum in comitatu, si potest, vel coram pluribus liberet.' Haec quae praediximus apponere ridiculosa satis et dispendiosa quorundam subterfugia compulerunt. Cognito enim quibus determinatis temporibus summonitiones emittebantur, antequam pervenisset ad comitatum summonitio de debito suo, vacuatis horreis et pecuniis suis quocunque sibi distractis vel ad loca tuta translatis, vacuus in domo sua residens, vicecomitis et ceterorum

officialium securus exspectabat adventum; et hac arte plurimis annis regiae summonitionis auctoritas non sine dispendio videbatur eludi. Ille enim, ad quem cum facultatibus suis, metus hujus causa, transierat, cum inde mandatum non haberet, in res suas manum mittere non praesumebat. Hac ergo consideratione per aliquot annos in summonitionibus appositum fuit verbum quod praemissum est; nec postea alicui patuit locus subterfugii, quin satisfaciat omnis debitor per omnem modum, nisi quem sola suprema excusat inopia. Cum autem jam omnibus vicecomitibus et debitoribus constitisset quod sic sophisticae poterant importunitates determinari, non oportuit amplius illud verbum apponi, nec apponitur: modus tamen ille qui dictus est coercionis debitorum, quacumque se transtulerint, perseverat apud vicecomites, et quasi quodam jure perpetuo constitutus servatur. . . .

II. *Ex quibus Summonitiones fiant.*

Illustris Anglorum rex Henricus hoc nomine participantium regum secundus dictus est, sed nulli modernorum fuisse creditur in rebus componendis animi virtute secundus: ab ipso enim suae dominationis exordio totum in hoc direxit animum, ut paci rebellantes et dyscolos multiplici subversione contereret, et pacis ac fidei bonum in cordibus hominum modis omnibus consignaret. Hujus igitur insignia cum jam in omnes gentes celeberrima fama vulgaverit, adeo ut hiis exponendis insistere supervacuum videatur: unum tamen est, quod cum silentio praeterire non valeo, ex quo solo singularis ejus probitas et pietas inaudita firmatur.

> Non tamen hoc hominis fuit, immo Dei miserentis,
> Quod sibi, quod toti cum paucis restitit orbi.

D. Qualiter sibi resistere dici possit opus insigne, nisi planum feceris, non video.

M. Licet haec ad opus coeptum vel propositum non attineant, memor tamen regis illius magnanimi, cum pace meae mentis hiis supersedere non valui. Videas ergo quam miraculose vir ille sibi restitit in suis. Filios quidem suae carnis, immo et animae suae spem post Deum unicam et gloriam singularem, dum parvuli essent, et ratione aetatis cerei supra modum et in omnem animi motum proni, vulpeculae pertinaces consiliis pravis demolitae sunt, et tandem in patrem tanquam in hostem sua viscera converterunt; facti sunt etiam 'inimici

hominis domestici ejus', et qui custodiebant latus ejus, consilium inierunt adversus eum; dicentes filiis et hostibus 'persequimini et comprehendite eum, quia non est qui eripiat;' diceres in hiis verbum completum prophetae; 'filios enutrivi et ecce ipsi spreverunt me.' Cum igitur uxor in virum, filii in patrem suum, domestici sine causa desaevirent in dominum; nonne satis optime sibi rebellantem virum diceres? Verum contra numerosam hostium multitudinem solius Divinae gratiae magnitudo subvenit, et quasi pugnante pro se Domino, sic in brevi pene rebelles omnes obtinuit, ut longe fortius quam prius, ex eo quo infirmari debuit, confirmaretur in regno. Norunt enim propter hoc potentissimi, qui conspiraverant adversus eum in omni virtute sua, clavam a manu Herculis nisi vix extorqueri non posse. Comprehensis insuper hostibus tam enormis sceleris incentoribus inaudita pepercit misericordia; ut eorum pauci rerum suarum, nulli vero status sui vel corporum dispendia sustinerent. Si legeres ultionem quam exercuit David in subversores Absalonis filii sui, diceres hunc illo longe mitius egisse: cum tamen de illo scriptum sit; 'inveni virum secundum cor Meum.' Licet autem rex insignis pluribus abundaret exemplis, et posset in eos justissimam exercere vindictam; maluit tamen expugnatis parcere quam eos punire, ut ejus regnum crescere viderent vel inviti. Vivat igitur in longa tempora rex ille gloriosus et felix, et pro inpensa gratia gratiam mereatur ab alto. Vivat et proles ejus ingenua, patri suo subjecta nec ei dissimilis: et quia nati sunt populis imperare, paterno simul et proprio discant exemplo, quam gloriosum sit 'parcere subjectis et debellare rebelles.' Nos autem suscepta negotia prosequamur. Quod si de hiis et aliis strenuis ejus actibus libet plenius instrui, libellum cujus supra meminimus, si placet, inspicito. Igitur post naufragum regni statum pace reformata, studuit iterum rex avita tempora renovare: et eligens discretos viros secuit regnum in sex partes, ut eas electi judices quos errantes vocamus perlustrarent, et jura destituta restituerent. Facientes ergo sui copiam in singulis comitatibus, et hiis qui se laesos putabant justitiae plenitudinem exhibentes, pauperum laboribus et sumptibus pepercerunt. Contigit autem in hiis excessus varios plerumque variis modis pro negotiorum qualitate puniri, ut quidam corporalem, quidam pecuniariam poenam luant. Porro pecuniariae delinquentium poenae in rotulis errantium diligenter annotantur; et consedente scac-

cario coram omnibus thesauro traduntur. Caveant autem judices, ut correctos et per ordinem dispositos rotulos thesaurario liberent; non enim fas erit ipsis etiam judicibus, facta traditione, iota unum mutare etiam in quod omnes judices consenserint.

D. In hoc mirabile est, quod cum scriptorum suorum auctores sint, et non nisi de ipsorum industria vel labore proveniant, etiam in unum aliquid consentientes scriptum proprium mutare non possunt.

M. Cum indulta sint correctionis tempora, et legem noverint constitutam, sibi imputent; oblatorum enim summa vel ab ipsis debitoribus, si in hanc condemnati sunt, vel ab ipsis judicibus requiretur. Ut si in rotulo suo condemnatum aliquem in solutione xx. descripserint, et, tradita jam cautione thesaurario, recordati fuerint quod non teneatur ille nisi in x.; ipsi judices de residuo satisfacient; quia scriptum suum cum deliberatione factum et correctum post traditionem revocare non possunt. Susceptorum vero rotulorum debita thesaurarius in magno annali rotulo diligenter et distincte per singulos comitatus annotari facit, simul cum causis, praenotatis, ut jam dictum est, nominibus judicum; ut per hoc exactorum fiat discretio. Ex hiis igitur summonitiones fiant sic; 'de placitis illorum N. de illo hoc et de illo illud;' secundum quod praesidentes prius debita taxaverint. Habes ex praedictis, ut credimus, quantum necesse est, ex quibus et qualiter et ad quid summonitiones fiant: nunc ad agenda vicecomitis transeamus. Decet autem te dicendis sollicitam adhibere diligentiam, quia in hiis excellentior scaccarii scientia consistit, sicut dictum est ab initio. . . .

X. *De excidentibus et occupatis, quae usitatius dicimus de purpresturis et escaetis.*

Post haec autem, facto intervallo quasi sex linearum, sequitur compotus de excidentibus et occupatis, quae nos usitatius dicimus 'de purpresturis et escaetis.' In medio quidem lineae fit praenotatio litteris capitalibus, 'de purpresturis et escaetis;' in capite vero inferioris sic scribitur; 'idem vicecomes reddit compotum de firma purpresturarum et escaetarum, scilicet de x. l. de hoc et de xx. l. de illo,' et ita deinceps, sicut ex rotulo perlustrantium judicum ante conceptum est in annali, 'summa c. l.' Dehinc in fine ejusdem lineae ubi summa est, scribitur, 'in thesauro xx. l. in tot

taleis, et debet quater xx. l.;' vel, 'in thesauro liberavit, et quietus est.' Horum autem scribendorum ordinem magis oculata fide quam verborum quantalibet argumentosa descriptione cognosces.

D. Quae sint haec excidentia, vel occupata, et qua ratione fisco proveniant, nisi plenius aperueris, non video.

M. Fit interdum per negligentiam vicecomitis vel ejus ministrorum, vel etiam per continuatam in longa tempora bellicam tempestatem, ut habitantes prope fundos qui coronae annominantur, aliquam eorum portionem sibi usurpent et suis possessionibus ascribant. Cum autem perlustrantes judices per sacramentum legitimorum virorum haec deprehenderint, seorsum a firma comitatus appretiantur et vicecomitibus traduntur ut de eisdem seorsum respondeant; et haec dicimus purpresturas vel occupata; quae quidem cum deprehenduntur, a possessoribus sicut praedictum est tolluntur et abhinc fisco cedunt. Verum si is a quo tollitur occupatum auctor est facti, simul etiam nisi rex ei pepercerit, pecuniariter gravissime punietur; quod si non auctor sed haeres auctoris fuerit, ad poenam sufficit fundi ejusdem sola revocatio. Ex quo sane, sicut ex aliis pluribus, regis misericordia comprobatur; dum patris tam enormis excessus non punitur in filio, qui usque ad factam inquisitionem publicae potestatis jactura ditabatur. Porro escaetae vulgo dicuntur quae decedentibus hiis qui de rege tenent in capite, cum non exstet ratione sanguinis haeres, ad fiscum relabuntur. De hiis autem simul cum purpresturis compoti fiunt sub una scripturae serie; sic tamen ut singulorum nomina per ordinem exprimantur. At cum paterfamilias miles vel serviens, de rege tenens in capite, fati debita solverit, relictis tamen liberis, quorum primogenitus minor est annis, redditus quidem ejus ad fiscum redeunt; sed hujusmodi non simpliciter escaeta dicitur, sed escaeta cum haerede; unde nec haeres ab haereditate, nec ab ipso haereditas tollitur; sed simul cum haereditate sub regis custodia constitutus tempore pupillaris aetatis de ipsa haereditate, per regis officiales, tam ipse quam ceteri liberi necessaria percipiunt. Cetera vero, quae de ipsa proveniunt, regiis usibus cedunt. De hiis autem seorsum compoti fiunt; quia non perpetuo, sed quodam temporali jure fisco debentur. Cum enim haeres, nunc minor, legitimae aetatis adeptus beneficia, sibi suisque disponere noverit, quod jure sibi paterno debetur a regia munificentia suscipiet, quidam gratis, per solam scilicet gratiam

principis, quidam promissa summa aliqua; de qua cum compotus fiet, dicetur in annali; ' ille vel ille reddit compotum de centum libris de relevio terrae patris sui; in thesauro hoc, et debet hoc: ' de hoc autem ultra in annali compotus non fiet; cum ad fiscum post hoc non redeat. Verum dum in manu regis est, de hoc sic scribetur in annali; ' ille vicecomes reddit compotum de firma illius honoris,' si scilicet baronia est; ' in thesauro hoc; et in procuratione liberorum illius hoc, per breve regis; ' quod ibi ad scaccarium per consuetudinem fiet; ' et debet hoc,' vel ' et quietus est.' Quod si minor est possessio haec, ut sit fundus unus vel duo vel tres, sic dicetur; ' ille vicecomes ' vel ' ille N.', cui forte rex ejusdem rei custodiam deputavit, ' reddit compotum de firma terrae illius N. quae fuit illius N., quam rex habet in manu sua,' vel ' quae est in manu regis cum haerede; in thesauro hoc; et debet hoc;' vel ' et quietus est.' Attende praeterea, quod honor ille vel fundus dum in manu regis cum haerede fuerit, omnes elemosynae et liberationes indigentium, a prioribus dominis solo caritatis intuitu constitutae, hiis quibus debentur cum integritate solvuntur, et ad scaccarium custodi computantur: liberationes vero servientium, qui dominis suis ad explenda quaelibet obsequia necessarii visi sint, et ob hoc constituuntur, dum rex possidet, voluntariam habent solutionem. Cum autem in manu haeredis devoluta fuerit haereditas, oportet eum patris inhaerere vestigiis; ut scilicet quoad usque vixerint hii quibus haec a patre suo constituta sunt vita comite percipienda, illis satisfaciat, et post haec si voluerit, eorum utatur vel non utatur obsequiis.

D. Dixisti, si bene memini, quod si quilibet de rege tenens in capite decedens minorem annis haeredem reliquerit; tandem idem relictus post legitimae aetatis tempora, quidam gratis, quidam promissa pecunia, quod sibi debetur a rege suscipit. Quod autem sic solvitur, relevium dicis. Dic ergo si cujuslibet fundi qui de rege est in capite, relevium sub consimili summa debeat exigi; vel si sub dissimili, quare sic?

M. In propriam te videor armasse perniciem. Ex praedictis enim alia conjiciens armatis me vexas quaestionibus. Noveris autem quod releviorum quae regi debentur, secundum dissimiles possidentium status dissimilis summa consurgit: quidam enim de rege tenent in capite quae ad coronam pertinent, baronias scilicet majores seu minores; si ergo pater possessor hujusmodi mortuus fuerit, relicto haerede, qui jam

adultus sit, non secundum constitutam de hiis summam regi satisfaciet, sed secundum quod a rege poterit obtinere. Quod si minor aetate fuerit haeres, in custodia constitutus legitimam aetatem praestolabitur ; tunc autem, vel gratis sicut dictum est, vel secundum beneplacitum regis sicut adultus, haereditatem paternam nanciscetur : si vero decesserit quis tenens tunc de rege feodum militis, non quidem ratione coronae regiae, sed potius ratione baroniae cujuslibet quae quovis casu in manum regis delapsa est, sicut est episcopatus vacante sede, haeres jam defuncti si adultus est pro feodo militis c. solidos numerabit, pro duobus x. libras, et ita deinceps juxta numerum militum quos domino debuerat antequam ad fiscum devoluta foret haereditas. Quod si minor annis haeres relictus fuerit, quae de haereditate ejus proveniunt ratione custodiae tempore pupillaris aetatis fisco provenient, sicut dictum est. Relictus autem a patre jam adultus pro singulis feodis militum c. solidos solvet, vel etiam infra, hoc est l. solidos si dimidii militis feodum possederit, et sic deinceps. Nec te lateat quod ejus quem in custodia per aliquot annos habueris et possessionis ejus fructum, cum ad aetatem legitimam pervenerit, relevium repetere non valebis.

D. In hac parte pro pupillis lex judicat, quod piis mentibus bene sedet, decernit.

M. Sic est ; sed de propositis prosequamur. Item est et tertium genus excidentium vel escaetarum, quod fisco provenit jure perpetuo. Cum aliquis de rege tenens in capite perpetrati sceleris sibi conscius, sive sit ei objectum, sive non, relictis tamen omnibus per fugam vitae consulit : vel si super eodem objecto convictus vel confessus, terra simul et vita judicatur indignus ; omnia quae sui juris fuerant mox infiscantur, et redditus omnes annuo, immo et perpetuo, jure ad scaccarium a vicecomite persolvuntur, et quod ex mobilibus eorum venditis provenit, regi cedit. Similiter si cujuscunque conditionis vir vel cujuscunque domini servus aut liber, metu arctioris assisae quam rex propter sceleratos constituit, a sede sua fugerit, et per constitutos ac lege definitos terminos juri se non obtulerit vel excusaverit, vel etiam si acclamante in ipsum vicinia suspectus et postmodum comprehensus, per legem assisae constitutam reus sceleris convictus fuerit ; omnia ejus mobilia fisco cedunt, immobilia vero dominis suis. Mobilium vero pretia per manum vicecomitis ad scaccarium deferuntur, et in annali sic annotantur ; ‘ idem vicecomes reddit compotum

de catallis fugitivorum vel mutilatorum per assisam de loco illo N.; scilicet de hoc v., de illo x.,' et sic deinceps per singula capita, expressis eorum nominibus et summis quae de catallis singulorum exsurgunt. Fiet autem in fine summa omnium; et circa finem ejusdem lineae in qua summa est, scribetur, ' in thesauro xl. librae in tot vel tot taleis, et debet x. libras,' vel ' et quietus est.' Haec sunt, frater, quorum supra meminimus, quae ad scaccarium a vicecomite deferenda sunt, etiamsi summonitio nulla praecesserit. Sic et thesaurus effossa tellure vel aliter inventus. Item cum quis laicum fundum habens, vel civis etiam publicis inservit usuris; si hic intestatus decesserit, vel etiam hiis quos defraudavit non satisfaciens testamentum de prave acquisitis visus est condidisse, sed eadem non distribuit, immo penes se reservavit; quia sic perquisitis incumbens animum possidendi deseruisse non creditur, pecunia ejus et omnia mobilia mox infiscantur; et non summonita per officiales ad scaccarium deferuntur; haeres autem jam defuncti fundo paterno et ejus immobilibus sibi vix relictis gaudeat.

D. Ex praemissis, quae de foeneratoribus dicta sunt, quaestio gravis animum pulsat, quam vellem, si placet, plenius expediri; dixisti enim, ' cum quis laicum fundum habens, vel etiam civis, publicis inservit usuris etc.;' ex quibus verbis personarum quaedam distinctio inter sic delinquentes fieri posse videtur; ut alia sit clericorum, alia laicorum conditio, cum pares sint in delicto. Item ex eo quod additur, ' publicis inservit usuris,' credi potest esse quasdam non publicas, quibus si quis adhaeserit, an legi publicarum subjaceat prorsus ignoro.

M. Frustra credidi brevibus et communibus tibi satisfaciendum; cum ex hujusmodi quaestionem elicias cujus absolutio peritorum quosdam hucusque latuit. Verum quod dicis, ' ex verbis tuis, clericorum et laicorum sic delinquentium videtur esse dispar conditio, cum pares sint in delicto,' non approbo: sicut enim in gradibus sic et in culpis dissident; juxta verbum illud; ' quanto gradus altior, tanto casus gravior;' in bonis etiam et meritoriis operibus, ut quibusdam visum est, dispares sunt. Laici enim, qui voti necessitate minus tenentur, ampliorem gratiam promereri videntur; sicut in perversis actibus hii, qui voto religionis inserviunt, gravius offendunt. Sed de hiis hactenus. Habes autem ex praecedentibus unde tuae quaestionis pars prima valeat absolvi. Ex eo enim quod clericus usuris inserviens dignitatis suae privilegium demeretur,

parem laico sic delinquenti poenam sibi mercatur, ut ipso videlicet de medio sublato omnia ejus mobilia fisco debeantur. Ceterum sicut a prudentibus accepimus: in sic delinquentem clericum vel laicum Christianum regia potestas actionem non habet, dum vita comes fuerit: superest enim poenitentiae tempus: sed magis ecclesiastico judicio reservatur, pro sui status qualitate condemnandus. Cum autem fati munus expleverit, sua omnia, ecclesia non reclamante, regi cedunt: nisi, sicut dictum est, vita comite digne poenituerit, et testamento condito quae legare decreverit a se prorsus alienaverit. Restat itaque, ut quas publicas dicamus usuras et quas non publicas expediamus; deinde si pari lege teneantur, qui in utrisque delinquunt. Publicas igitur et usitatas usuras dicimus, quando more Judaeorum in eadem specie ex conventione quis amplius percepturus est quam commodavit; sicut libram pro marca, vel pro libra argenti duos denarios in septimana de lucro praeter sortem: non publicas autem sed tamen damnabiles, cum quis fundum aliquem vel ecclesiam pro commodato suscipit, et manente sortis integritate, fructus ejus, donec sors ipsa soluta fuerit, sibi percipit. Hoc genus propter laborem et sumptum qui in agriculturis solent impendi, licentius visum est; sed proculdubio sordidum est et inter usuras merito computandum. Quod si creditor avarus et in ruinam animae suae pronus in scripto sic exprimi dignum duxerit, ut dicatur; 'notum sit omnibus, quod ego N. debeo N. centum marcas argenti; et pro hiis centum marcis invadiavi ei terram illam pro x. libris; quousque ego, vel haeres meus, solvam ipsi vel haeredi suo praedictas centum marcas:' cum post mortem creditoris ad regis vel principalis Justiciarii notitiam hujus famosae cartae tenor pervenerit: imprimis foedus foenoris quaestus condemnabitur, et creditor scripto suo deprehensus foenerator, mobilibus suis indignus judicabitur. Quod si is cujus fundus est a rege quomodolibet obtinuerit, ut sic distractus sibi restituatur, in sorte tota domino regi tenebitur, etiamsi creditor per biennium vel amplius possederit. Regis tamen munificentia de summa sortis illius taxare consuevit, maxime propter singularis gratiae munus, in quo fidelibus suis debito praelationis tenetur; et item quia creditoris seu foeneratoris, qui sui fidelis enormi jactura ditatus fuerat, ratione publicae potestatis bona omnia percepturus est. Sunt et pleraque alia quae singulariter ad fiscum pertinent, quae non facile sub una scripturae serie redigi

possunt ; quia non constituta sed casualia sunt. De hiis tamen excidentibus hujus tertii generis, non supra post firmas sed infra post omnia placita compoti fiunt, ante catalla fugitivorum ; ut ipsa quoque locorum positione videantur pro enormibus culpis delinquentium ad fiscum pertinentia.

D. Miror super hiis quae dixisti ; nec enim cum prioribus stare posse videntur. Cum enim ascriptitiorum dominis liberum sit, non solum illos transferre, verum etiam quibuscunque modis distrahere, sicut supra dictum est ; et non tantum catallorum sed et corporum merito domini reputentur ; mirandum est cum dominus rerum et hominis rei nil delinquat in legem, quare possessione sua privetur : videri enim justum posset, ut regis constitutio in personam delinquentis puniret excessum, mobilia vero cum ipsis fundis in usus dominorum cederent.

M. Movet te quod me movit ; verum in hiis longam fieri moram superfluum credo, cum ab inceptis negotiis aliena sint. Ut tamen tibi satisfiat ; propter solam regis assisam sic esse cognoscas ; nec enim est qui regiae constitutioni, quae pro bono pacis fit, obviare praesumat. Quod si dominis catalla suorum per assisam condemnatorum provenirent, forte (quia cupiditatis humanae fervida sitis in medio posita est) propter modicum quaestum quidam in necem suorum etiam innocentium grassarentur : ea propter rex ipse, cui generalis est et a Deo credita cura subditorum, haec ita decrevit ut sic rei legi satisfacientes corpore puniantur, et retentis sibi ipsi mobilibus, domesticis hostibus, hoc est, dominis suis, non exponantur : verum, sicut jam diximus, sola regis institutio urgente necessitate pro bono pacis facta, hujus quaestionis principalis solutio est.

D. Video quod non sine causa fit. Nunc, si placet, prosequere. Verum restat in praecedentibus quiddam, quod vellem altius, si placet, expediri. Dixisti enim, quod fugitivorum et mutilatorum per assisam mobilia non summonita ad scaccarium deferuntur, et in annali suo loco scribuntur : quid autem de praedonum vel furum catallis fieri debeat non dixisti ; si scilicet ad regem pertineant, vel cui de jure cedere debeant.

M. Praedonum, qui et fures manifesti dicuntur, et latenter furantium, conditio dissimilis est ; porro tam horum quam illorum duo sunt genera, ex quorum singulis catalla diversis diverso modo proveniunt. Praedonum quidem sicut et furum quidam exleges sunt, quos usitatius utlagatos dicimus, quidam

non : utlagati vero vel exleges fiunt, quando legitime citati non comparent, et per legitimos et constitutos terminos exspectantur et etiam requiruntur, nec juri se offerunt. Horum itaque catalla sicut et vita in manibus comprehendentium ipsos esse noscuntur, nec ad regem pertinere qualibet ratione possunt : praedonum autem bona qui nondum in hanc miseriae summam delapsi sunt, si comprehendantur, ad fiscum proveniunt : furum autem ad vicecomitem sub quo deprehensi et puniti sunt. Quod si vicecomes furis causam ad curiam deduci dignam duxerit, ut ibi judicetur, nihil ipsi sed totum regi debetur, quod fur ille possederit. Si vero furem proprium quis insecutus fuerit, et in curia prima domini regis, vel etiam in comitatu ipsum comprehenderit, et reum furti adjudicata lege probaverit ; de catallis furis, si ad id suffecerint, ablata primum laeso restituantur, praecedente, si placet domini regis Justiciario, de summa ablatorum fide ejus qui petit, vel sacramento : postmodum autem ex provida studiosorum pacis institutione, idem de bonis furis tantundem accepturus est in laboris et sumptus sui solatium, quantum prius dolo furis amiserat. Haec autem duplex et prudenter procurata solutio ab antiquis solta et persolta vel prosolta non immerito dicta est : primo enim quod ablatum fuerat et solvitur et ob hoc solta dicitur : deinceps pro laboris et sumptus impendio quod adjicitur pro vel persolta nuncupatur. Hiis in hunc modum expletis, quod fuerat in bonis rei residuum fisco proveniet.

D. Et haec necessaria visa sunt ; sed nunc juxta promissum, de censu nemorum, si placet, prosequere.

M. Gratulor quod te tam dictorum virtutem quam dicendorum ordinem memoriter tenuisse conspicio. Superest igitur ut votis tuis satisfacere pro viribus non omittam. . . .

XIII. *De distinctione personarum quae solvendo non sunt ; de quibus a Vicecomite fides offertur, et sub quo tenore verborum fides detur.*

Porro hic primum distinguendum est circa debitores et debita ; ut in quibus fides oblata locum habeat, et quibus non, tibi constet : si enim miles, vel liber alius, aut ascriptitius, vel quaelibet hujusmodi cujuscunque conditionis aut sexus persona, regi tenetur in quovis debito, quod quidem poena sit pro excessu, non oblatum spontaneum, fide illa vicecomitis oblata et in fine suscipienda contentus erit thesaurarius ; et iterato scribetur debitor in hoc annali, sicut in praeterito, vir

vel mulier cujus actio per inopiam inanis facta est. Verum secus est si debitor ille de quo quaeritur civis est vel burgensis, si scilicet genere civis sit, vel facta sibi necessitate, commorantium civium legibus sponte se subjecerit. Non enim sufficit vicecomiti, quod horum, si qui de requisita summa non satisfaciunt, mobilia tantum solvat, vel quaesisse se nec invenisse fidem offerat, ut sic ad scaccarium liberetur, nisi eorum et domos et fundos et quoslibet urbium redditus infiscet, et penes alios collocet, ut vel sic debita regi pecunia proveniat; quod si non inveniantur qui suscipiant, parcentibus sibi invicem ejusdem conditionis hominibus, domos eorum seris obstruat, et fundos diligenter excoli faciat. Si vero interim hii solverint quae requiruntur, ad proprietarios ipsos per manum vicecomitis sine molestia quae sui juris sunt reddentur.

D. Mirari satis non possum, ubi culpa dispar non est,

Cur genus hoc hominum gravius lex nostra coercet.

M. Maxima pars possessionis eorum qui fundos habent et per agriculturam sustentantur, in pecudibus, in animalibus et in frugibus est, et item in hiis quae non facile cohabitantium notitiam possunt effugere: at hiis qui mercimoniis inserviunt, et qui parcentes sumptibus, multiplicandis possessionibus totis viribus et modis omnibus insistunt, in numeratam pecuniam sollicitior cura consistit. Per haec enim commercia facilius exercentur; et possunt haec in locis tutis et ignotis facile reponi: unde fit ut saepe qui dives est, non patentibus hiis quae latent, pauper reputetur: propter haec igitur in hos gravius lex illa decernit; quia superabundans pecuniarum puteus non de facili videtur exhaustus.

D. Quid assisa communis, et quis vel quo ordine de ipsa respondeat, ex praedictis magna ex parte jam constat. Nunc si placet de auxiliis, vel donis civitatum seu burgorum; qualiter ex hiis compoti fiant, et qui principaliter conveniendi vel coercendi super hiis fuerint, edissere; modus enim coercionis ex praedictis jam patet.

M. Gaudeo te memorem praedictorum; et hinc, fateor, me magis animasti. Noveris itaque quod plurimum interest, si donum vel auxilium civitatis per singula capita commorantium in ea a Justitiis constituatur: vel si cives summam aliquam quae principe digna videatur justiciariis offerant, et ab eis suscipiatur: dispar enim in hiis duobus modus est coercionis; si enim per singulos a judicibus constitutum est donum, et

quilibet eorum solvendo non fuerit, lex praedicta de civibus non solventibus servatur; ut scilicet domibus et redditibus usque ad solutionem privetur. At si dictum est a civibus, 'dabimus regi mille libras;' et haec summa digna suscipi judicetur; ut statutis terminis eadem exsurgat ipsi provideant. Quod si forte excusare coeperint, allegantes quorundam inopiam qui in aliqua parte summae hujusmodi tenebantur; tunc diligenter, hoc est per fidem vicecomitis, inquirendum est, si a tempore constituti per eosdem cives doni vel auxilii hii tales exstiterint ut solvere non valerent; quod si inventum fuerit, provideant alios ex quibus summa prior exsurgat, vel per commune distribuatur quod restat; verum si tempore constitutionis abundabant, sed lege fortunae natura mobilis nunc egeant, sustinendum est de hiis quousque per Dei gratiam ditentur.

D. Cerno quod in omnibus modum servantes semper regiis commodis inhaeretis.

M. Memoriter tenes quid de civibus vel burgensibus non solventibus sit agendum. Quod si forte miles aliquis vel liber alius a sui status dignitate, quod absit, degenerans, multiplicandis denariis per publica mercimonia, vel per turpissimum genus quaestus, hoc est, per foenus, institerit, et exacta sponte non solverit, non per fidem tantum de non inventis vicecomes absolvetur, verum cum haec praesidenti suggesserit, districtum ab ipso mandatum suscipiet ut de summa quae ab illo requiritur statutis terminis solvenda fidejussores inveniat; quod si noluerit, omnes ejus redditus infiscentur; ut in hac parte merito fiat

Hiis similis qui multiplicant quocunque modo rem.

D. Dignum revera est, ut a statu suo pro turpi quaestu recedens degener miles, vel liber alius, praeter communem liberorum legem puniatur. Sed jam nunc si placet edissere, quae sunt quae pro catallis ejus qui regi tenetur debeant imputari, et utrum ab omnibus omnia tollenda sunt a vicecomite, quousque summa quae requiritur exsurgat, quando scilicet principalis debitor exacta sponte non solvit.

XIV. *Quae catalla debitorum vendenda non sunt, cum ipsi sponte non solvunt, et quis in vendendis ordo sit observandus.*

M. In pelagus me quaestionum impellis, nescio, Deus scit, qua emersurum. Noveris itaque, quod sic iterum personarum distinctio necessaria est, sicut ex consequentibus liquebit; vel-

lem tamen in hac parte mihi parceres, ne pluribus displicitura proferre compellas.

D. Dum a legis constitutae tramite non exorbitaveris, justam prudentis offensam non mereberis : quod si cui grave videbitur quod lex statuit, ei qui condidit irascatur, non tibi.

M. Ab initio debitor tibi factus sum ex promisso. Hinc est, quod nolens teneor parere petenti. Debitorum igitur qui exacta sponte non solvunt, catalla, quae licite venduntur, sunt eorum mobilia ac sese moventia ; qualia sunt aurum, argentum et ex hiis vasa composita, lapides quoque pretiosi, et mutatoria vestimentorum, et hiis similia ; item equorum utrumque genus, usuales scilicet et indomiti ; armenta quoque boum et greges ovium, et cetera hujusmodi ; frugum etiam et quorundam victualium mobilis est natura, ut scilicet libere vendi possint, deductis necessariis sumptibus debitoris ad sola victualia, hoc est, ut necessitati, non superfluitati, et item ut naturae satisfiat non crapulae ; nec soli debitori, sed uxori ejus ac filiis ac familiae quam prius exhibuerat dum sibi viveret, huic necessaria ministrantur.

D. Quare dicis ' quorundam ? '

M. Victualia quae ab eis quotidianis usibus praeparantur et quae sine sui mutatione esibus accommodantur, qualia sunt panis et potus, nulla ratione vendi possunt ; victualium igitur ea duntaxat, quae praeter usus necessarios ab ipsis dominis reservanda fuerant ut venalia fierent, licite venduntur, qualia sunt carnes sale conditae, casei, mella, vina, et hiis similia. Et nota, quod si debitor ille qui solvendo non est, militiae cingulum semel obtinuerit, venditis ceteris, equus tamen ei, non quilibet, sed unus usualium, reservabitur ; ne qui dignitate factus est eques, pedes cogatur incedere. Quod si miles ejusmodi fuerit,

Quem juvet armorum decor et juvet usus eorum,

et qui meritis exigentibus debeat inter strenuos computari, tota sui corporis armatura cum equis ad id necessariis a venditoribus erit liberrima ; ut, cum oportuerit, ad regis et regni negotia armis et equis instructus possit assumi.

Si tamen hic idem cui lex in parte pepercit,

audita necessitate regis vel regni, delitescens se absentaverit, vel ad hoc vocatus non venerit, sic tamen ut non propriis sed regiis stipendiis militet, et evidenter absentiam suam non

excusaverit, nec ab hiis venditores temperabunt ; sed solo contentus equo propter dignitatem militiae sibi relicto, juri communi vivat obnoxius. Caveat autem vicecomes ut venditores suos praemonuerit in vendendis hunc ordinem observare ; mobilia cujusque primo vendantur, bobus autem arantibus per quos agricultura solet exerceri quantum poterunt parcant ; ne ipsa deficiente debitor amplius in futurum egere cogatur. Quod si nec sic quidem summa quae requiritur exsurgit, nec arantibus parcendum est. Cum igitur omnia, quae ad ipsum specialiter pertinent venalia, venundata sunt ; si nondum satisfactum est, ascriptitiorum ejus fundos adeant, et eorum catalla licite vendant, ordinem simul et legem praedictam observantes ; haec enim ad dominum pertinere noscuntur, sicut supra dictum est. Quo facto, sive sic de requisita summa satisfactum sit sive non, venditores jubet lex nostra quiescere ; nisi forte scutagium sit quod a domino requiritur ; pro scutagio namque si non solverit qui regi tenetur dominus principalis, non tantum propria sed et militum suorum et ascriptitiorum catalla passim venduntur ; ratio namque scutagiorum milites suos magna pro parte respicit ; quia non nisi de militibus et ratione militiae regi debentur. Vidi tamen ego ipse, cui nondum cana memoria est, pro singulis debitis eorum qui non satisfaciebant, non solum propria sed etiam militum suorum et ascriptitiorum catalla licite vendi. Sed illustris regis constitutio in scutagiis tantum hoc observari decrevit, ordine servato, ut prius propria, dehinc aliena, vendantur. Quod si milites ea quae de feodis suis proveniunt domino solverint, et hoc oblata cautione probare voluerint, pro hiis quae a dominis requiruntur catalla sua venundari lex prohibet. . . .

XXIV. *Quid de Releviis sponte non solutis.*

Sunt item tertii generis obventiones, quae non videntur prorsus inter oblata computandae, sed magis fines ad scaccarium dicuntur ; cum scilicet de rege tenens in capite baroniam relicto haerede decesserit, et idem haeres cum rege in quam potest summam componit, ut paterni juris mereatur ingressum ; quem finem relevium vulgo dicimus. Quod si baronia est, in regis est beneplacito quae debeat esse summa relevii ; si vero de escaeta fuerit, quae in manu regis deficiente haerede vel aliter inciderit, pro feodo militis unius hoc tantum regi nomine relevii solvet, quod esset suo domino soluturus, hoc est, centum

solidos. Sunt autem qui credant eos, qui in releviis regi tenentur nec summoniti solvunt, spontaneorum oblatorum legibus obnoxios; ut cum solvendo non fuerint, careant impetratis: at verius dici potest, ut sicut de pecuniariis poenis fit, sic fiat de releviis; debita namque filiis ratione successionis haereditas eos a lege sponte oblatorum videtur excludere.

PART V

SELECT CHARTERS AND EXCERPTS; *Richard and John*

A. D. 1189–1199. RICHARD I

ARCHBISHOPS OF CANTERBURY: Baldwin, 1185–1190; Reginald Fitz-Jocelin, 1191; Hubert Walter, 1193–1205. CHIEF JUSTICES: Hugh Bishop of Durham and William Earl of Essex, 1189; Hugh Bishop of Durham and William Longchamp, Bishop of Ely, 1190; William Longchamp alone, 1190; Walter of Coutances, Archbishop of Rouen, 1191–1193; Hubert Walter, Archbishop of Canterbury, 1194–1198; Geoffrey Fitz-Peter, Earl of Essex, 1198–1199. CHANCELLORS: William Longchamp, Bishop of Ely, 1189–1197; Eustace Bishop of Ely, 1197–1199.

ALTHOUGH Richard had not been fully acknowledged by Henry II as his successor until a few days before his death, and had never been formally received as such by the English baronage, he succeeded without any difficulty in obtaining recognition, and having bound himself by the usual oaths, was anointed and crowned. After the coronation (Sept. 3) he stayed a few months in England, and only once again visited the country, in 1194, after his release from captivity, when he stayed from March 13 to May 12. On both these occasions his chief employment was the raising of money by the sale of public offices, the arranging of quarrels among the barons and clergy, and the securing of his own position against the machinations of John and Philip of France. The kingdom was administered during his absence by four successive justiciars, whose action, except so far as it was affected by the king's constant demands for money, was that of independent sovereigns. Under these the constitutional arrangements organized by Henry II worked with few impediments, and the reign is accordingly a period, internally, of quiet growth. The first of these ministers, William Longchamp, was a faithful

servant of Richard, but anti-English and unpopular with the baronage. His attempts to assert the royal rights and jurisdiction by taking possession of the castles and enforcing his own supremacy raised up a strong party against him, at the head of which was Earl John, for whom Richard had provided in a most lavish manner, and who, after Philip's return from the Crusade, acted in concert with him. A short struggle followed, in which John gained the advantage, and William Longchamp was deposed from the justiciarship by the assembled baronage under the direction of the Archbishop of Rouen, who had himself been authorized by Richard to attempt the settlement of the country. The Archbishop of Rouen succeeded as justiciar, and held the office until a few months before Richard's return from captivity. His period of rule is characterized chiefly by the attempts made by John to supplant his brother, and by the measures taken for raising the king's ransom. The constitutional history of England receives little illustration from either of these periods. Archbishop Hubert, however, who succeeded to the justiciarship in 1194, and Geoffrey Fitz-Peter, who followed him in 1198, were both able administrators, and attempted to unite faithful service of the king with the maintenance and the development in all respects of his father's system. The principle of raising money by the use and amplification of judicial machinery was carried by these ministers into new directions; larger charters were granted to the towns,[1] and larger powers to the itinerant judges, whilst at the same time the progress of the country towards self-government was marked by the introduction of the elective principle into the county court and the employment of the jury in the assessment of property. It would appear from the historians that although very large sums of money were exacted by these means, some form of constitutional process in the

[1] The first precedent, however, for the extension of municipal liberties was given in the year 1189, when the burgesses of Colchester were authorized to elect their own bailiffs and a justiciar 'ad servanda placita coronae'.

granting of taxes was maintained, and that although the people complained loudly of the imposts, they were well able to bear them. Neither Hubert nor Geoffrey was a popular minister, but neither can be accused of betraying the interests of the country, and each exercised a good deal of repressive influence on Richard, as they did also on his successor.

EXCERPTS.

A.D. 1189. BENED. ABB. ii. 78. Deinde Ricardus dux Normanniae venit Lundonias, et congregatis ibi archiepiscopis et episcopis, comitibus et baronibus et copiosa militum multitudine, III^tio^ nonas Septembris die Dominica . . . consecratus et coronatus est in regem Angliae . . .

Ib. p. 81. Cum vero perventum esset ad altare, coram . . . archiepiscopis et episcopis, abbatibus, comitibus, baronibus, clero et populo, haec tria fecit Ricardus dux sacramenta. Juravit itaque et vovit coram positis sacrosanctis Evangeliis et plurimorum Sanctorum reliquiis, quod pacem et honorem et reverentiam omnibus diebus vitae suae portabit Deo et Sanctae Ecclesiae et ejus ordinatis. Deinde juravit quod rectam justitiam exercebit in populo sibi commisso. Deinde juravit quod leges malas et consuetudines perversas, si aliquae sunt in regno suo, delebit et bonas custodiet.

Ib. p. 90. Et eodem mense Ricardus rex deposuit a bailliis suis Ranulfum de Glanvilla justitiarium Angliae et fere omnes vicecomites et ballivos eorum; et omnes redemit usque ad ultimum quadrantem; et quanto familiariores patri suo exstiterant, tanto eos plus opprimebat. Qui autem non habebat quantum ab eo exigebatur, statim capiebatur et in carcerem mittebatur ubi erat fletus et stridor dentium, et alios vicecomites in loco depositorum instituit. Et omnia erant ei venalia, scilicet potestates, dominationes, comitatus, vicecomitatus, castella, villae, praedia, et cetera iis similia. . . . Praeterea idem Hugo Dunelmensis episcopus dedit regi mille marcas argenti, ut esset justitiarius in Anglia, et ut ab itinere Jerosolimitano remaneret. . . . Et ceteri quicunque volebant, emebant a rege tam sua quam aliena jura. Unde factum est quod rex infinitam adquisivit pecuniam, quantam nullus antecessorum suorum habuisse dinoscitur.

RIC. DIVISIENSIS, p. 387. Willelmus Eliensis electus,

datis tribus millibus libris argenti, sigillum regis sibi retinuit, licet Reginaldus Italus quartum millerium superobtulerit.

A.D. 1191. BENED. ABB. ii. 213. Placuit ergo Johanni fratri regis et omnibus episcopis et comitibus ac baronibus et civibus Lundoniarum, quod cancellarius ille deponeretur a regimine regni ; et quod loco illius fungeretur Rothomagensis archiepiscopus, sicut rex in litteris suis mandavit. Ita factum est ad securitatem regni. Johannes comes frater regis, et archiepiscopus Rothomagensis et omnes episcopi, comites et barones regni qui aderant, concesserunt civibus Lundoniarum communam suam et juraverunt quod ipsi eam et dignitates civitatis Lundoniarum custodirent illibatas quam diu regi placuerit.

RIC. DIVIS. p. 416. Concessa est ipsa die et instituta communia Londoniensium, in quam universi regni magnates et ipsi etiam ipsius provinciae episcopi jurare coguntur. Nunc primum in indulta sibi conjuratione regno regem deesse cognovit Londonia, quam nec rex ipse Ricardus, nec praedecessor et pater ejus Henricus, pro mille millibus marcarum argenti permisisset. Quanta quippe mala ex conjuratione proveniant ex ipsa poterit diffinitione perpendi, quae talis est, 'Communia est tumor plebis, timor regni, tepor sacerdotii.'

A.D. 1193. SACRAMENTUM COMMUNAE LONDONIENSIS (ed. Round, *Commune of London*, p. 235). Quod fidem portabunt domino regi Ricardo de vita sua et de membris et de terreno honore suo contra omnes homines et feminas qui vivere possunt aut mori ; et quod pacem suam servabunt et adjuvabunt servare ; et quod communam tenebunt, et obedientes erunt majori civitatis Londoniae et skivinis ejusdem communae in fide regis ; et quod sequentur et tenebunt considerationem majoris et skivinorum et aliorum proborum hominum qui cum illis erunt, salvo honore Dei et sanctae ecclesiae et fide domini regis Ricardi et salvis per omnia libertatibus civitatis Londoniae . . .

A.D. 1193. ROG. HOVEDEN, iii. 210. Auctoritate igitur litterarum istarum (sc. regis de redemptione sua tractantis) mater regis et justitiarii Angliae statuerunt quod universi, tam clerici quam laici, quartam partem redditus sui de hoc anno darent ad redemptionem domini regis, et tantum superadderent de mobilibus suis, unde rex deberet eis grates scire :

et de unoquoque feodo militis viginti solidos, et de abbatiis ordinis Cisterciensis et de domibus ordinis de Semplingham, totam lanam suam de hoc anno ; et universum aurum et argentum ecclesiarum, sicut rex in mandato suo praeceperat.

Ib. p. 202. Ricardus rex Angliae in captione Henrici Romanorum imperatoris detentus, ut captionem illam evaderet, consilio Alienor matris suae, deposuit se de regno Angliae et tradidit illud imperatori sicut universorum domino, et investivit eum inde per pilleum suum : sed imperator sicut praelocutum fuit, statim reddidit ei, in conspectu magnatum Alemanniae et Angliae, regnum Angliae praedictum, tenendum de ipso pro quinque millibus librarum sterlingorum singulis annis de tributo solvendis, et investivit eum inde imperator per duplicem crucem de auro. Sed idem imperator in morte sua de omnibus his et aliis conventionibus quietum clamavit ipsum Ricardum regem Angliae et haeredes suos.

A.D. 1194. Ib. p. 236. Et statim (sc. Feb. 10) per commune consilium regni definitum est quod comes Johannes dissaisiaretur de omnibus tenementis suis in Anglia, et ut castella sua obsiderentur.

Ib. p. 240. Tricesima die mensis Martii, feria quarta, Ricardus rex Angliae celebravit primum concilii sui diem apud Notingham . . .

Eodem die rex dissaisivit Gyrardum de Camvilla de castello et vicecomitatu Lincolniensi, et Hugonem Bardolf de vicecomitatu Eboraci sirae et de castello Eboraci et de castello de Scardheburg, et de custodia de Westmerilande ; et omnia supradicta exposuit venditioni. Unde factum est, quod cum cancellarius conventionasset se daturum regi pro vicecomitatu Eboraci sirae et pro vicecomitatu Lincolniensi et pro vicecomitatu Nordhamtesirae mille et quingentas marcas in principio conventionis, et singulis annis de unoquoque praedictorum comitatuum centum marcas de incremento ; Gaufridus Eboracensis archiepiscopus obtulit regi tria millia marcarum pro vicecomitatu Eboracensi, et singulis annis centum marcas de incremento ; et sic abjecto cancellario, Eboracensis archiepiscopus obtinuit vicecomitatum Eboracensem et ita factus est regis serviens et praecipitavit se in potentias regias.

Tricesima prima die mensis Martii, scilicet pridie kalendas Aprilis, rex Angliae celebravit secundum diem concilii sui ; in

quo ipse petiit sibi fieri judicium de comite Johanne fratre suo, qui contra fidelitatem quam ei juraverat, castella sua occupaverat et terras suas transmarinas et cismarinas destruxerat, et foedus cum inimico suo rege Franciae contra eum inierat. Similiter et de Hugone de Nunant, Coventrensi episcopo sibi fieri judicium postulavit, qui secreti sui conscius eum reliquerat, et regi Franciae et comiti Johanni, inimicis suis, adhaeserat, omne malum in perniciem regni sui machinans. Et judicatum est quod comes Johannes et episcopus Coventrensis peremptorie scitarentur ; et si infra quadraginta dies non venerint nec juri steterint, judicaverunt comitem Johannem demeruisse regnum, et episcopum Coventrensem subjacere judicio episcoporum in eo quod episcopus erat, et judicio laicorum in eo quod ipse vicecomes regis exstiterat.

Kalendis Aprilis, prima die ejusdem mensis, praedictus rex Angliae celebravit tertium diem colloquii sui ; in quo constituit sibi dari de unaquaque carucata terrae totius Angliae duos solidos, quod ab antiquis nominatur Temantale. Deinde praecepit quod unusquisque faceret sibi tertiam partem servitii militaris, sicut singulus feodus apportat, ad transfretandum cum illo in Normanniam. Deinde exigebat ab monachis ordinis Cistrensis totam lanam suam de hoc anno ; sed quia hoc facere erat eis grave et importabile, fecerunt cum eo finem pecuniarium.

A.D. 1196. ROG. HOVEDEN, iv. 5. Eodem anno rex Angliae misit Philippum Dunelmensem electum et abbatem de Cadomo in Angliam, ad inquisitionem faciendam de prisis justitiarum et vicecomitum et ministrorum suorum. Cum autem praedictus abbas de Cadamo in Dominica Passionis Domini pranderet cum Huberto Cantuariensi archiepiscopo totius Angliae summo justitiario, aegrotavit in mensa et quinto die sequenti obiit Londoniis.

Ib. Eodem anno orta est dissensio inter cives Londoniarum. Frequentius enim solito, propter regis captionem et alia accidentia, imponebantur eis auxilia non modica, et divites propriis parcentes marsupiis volebant ut pauperes solverent universa. Quod cum quidam legis peritus, videlicet Willelmus cum Barba, filius Osberti, videret, zelo justitiae et aequitatis accensus, factus est pauperum advocatus, volens quod unusquisque tam dives quam pauper secundum mobilia et facultates suas daret ad universa civitatis negotia.

A.D. 1198. ROG. HOVEDEN, iv. 40. 'Eodem anno Ricardus rex Angliae petiit per Hubertum Cantuariensem archiepiscopum, ut homines regni Angliae invenirent ei trecentos milites uno anno moraturos secum in servitio suo, vel tantam pecuniam ei darent unde ipse posset per unum annum trecentos milites in servitio suo retinere, videlicet unicuique militi tres solidos Anglicanae monetae de liberatione in die: ad quod faciendum cum ceteri omnes proni essent, non audentes resistere voluntati regis, solus Hugo Lincolniensis episcopus, verus Dei cultor, abstinens se ab omni opere pravo, respondit pro se, quod ipse in hoc voluntati regis nequaquam adquiesceret, tum quia processu temporis in ecclesiae suae detrimentum redundaret, tum quia successores sui dicerent, 'Patres nostri comederunt uvam acerbam, et dentes filiorum obstupescunt.'

VITA MAGNA S. HUGONIS (ed. Dimock, Rolls Series), p. 248. . . . Coacta est vocante archiepiscopo Cantuariensi Huberto ad generale colloquium universitas magnatum totius Angliae apud Oxenefordiam. Quibus archiepiscopus, qui vice regis publicis praesidebat negotiis, regias proposuit necessitates; qui, sumptibus et militantium copiis inferior, contra regem dimicaret potentissimum, ad suam exhaeredationem et perniciem totis nisibus aspirantem. Postulat demum quatenus decernant in commune quo genere auxilii domino suo in arctis posito valeant subvenire. Jam vero praefinitum erat ab his qui secum regiis ex toto nutibus ducebant parendum, ut barones Angliae inter quos et episcopi censebantur, trescentos milites regi exhiberent, qui suis sumptibus ei per annum integrum contra hostes transmarinos indesinenter militarent.

Requisito super hoc in coetu illo assensu Lincolniensis episcopi, ipse tacitus secum deliberans paulisper, cum prius tam primas Cantuariensis quam Londiniensis episcopus Ricardus, qui et decanatus privilegio fungebatur inter episcopos, se suos et sua regiae per omnia necessitati expositurus pronunciassent, ita citius respondit; 'Nostis' ait 'O viri prudentes et nobiles qui in praesentiarum adestis, me in partibus istis advenam esse, et de simplicitate conversationis eremiticae ad officium episcopale assumptum. Cum igitur ecclesia dominae meae Sanctae Dei genitricis Mariae meae dudum imperitiae ad regendum fuisset commissa, consuetudines illius et dignitates,

debita etiam et onera solerter addidici ; in quibus conservandis sive exhibendis hactenus fere per tredecim annos a rectis praedecessorum meorum vestigiis non recessi. Scio equidem ad militare servitium domino regi, sed in hac terra solummodo, exhibendum Lincolniensem ecclesiam teneri ; extra metas vero Angliae nil tale ab ea deberi. Unde mihi consultius arbitror ad natale solum repedare, et eremum more solito incolere, quam hic pontificatum gerere et ecclesiam mihi commissam, antiquas immunitates perdendo, insolitis angariis subjugare.' Hoc ejus responsum archiepiscopus satis aegre accipiens, suppressa paululum voce, trementibus pro indignatione labiis, a Saresbiriensi episcopo nomine Hereberto inquirere coepit, quidnam et ipse animi haberet super auxilio regi prospiciendo. Qui ad inquisita sic paucis respondit, ' Videtur mihi quia, citra ecclesiae meae enorme praejudicium, aliud a me dici nequit vel fieri, quam quod faciendum esse ex responsione domini Lincolniensis modo audivi.' Ad haec nimium indignatus archiepiscopus, primum in Lincolniensem verbis amarissimis stomachatus, soluto concilio, nunciavit regi per ipsum caruisse effectu negotium illius.

ROG. HOVEDEN, iv. 46. Eodem anno Ricardus rex Angliae cepit de unaquaque carucata terrae sive hyda totius Angliae quinque solidos de auxilio, ad quos colligendos misit idem rex per singulos comitatus Angliae unum clericum et unum militem ; qui cum vicecomite comitatus ad quem mittebantur et legalibus militibus ad hoc electis, praestito juramento quod fideliter exsequerentur negotium regis, fecerunt venire coram se senescallos baronum illius comitatus ; et de qualibet villa dominum vel baillivum villae et praepositum cum quatuor legalibus hominibus villae, sive liberis sive rusticis ; et duos milites legaliores de hundredo ; qui juraverunt, quod fideliter et sine fraude dicerent quot carucarum wannagia fuerint in singulis villis, quot scilicet in dominico, quot in villenagio, quot in eleemosynis viris religiosis collatis, quas ipsi donatores vel eorum haeredes tenentur warantizare vel adquietare, vel unde viri religiosi debent servitium facere ; et super singula carucarum wannagia ponebant ex praecepto regis primo duos solidos, et postea tres solidos ; et haec omnia in scriptum redigebantur ; et habebat inde clericus rotulum unum et miles rotulum alterum, vicecomes rotulum tertium, senescallus baronum rotulum quartum de terra

domini sui. Haec pecunia recipiebatur per manus duorum legalium militum de singulis hundredis, et per manum ballivi de hundredo; et ipsi inde responderunt vicecomiti, et per praedictos rotulos respondebat vicecomes inde ad scaccarium coram episcopis, abbatibus, et baronibus ad hoc assignatis. Ad poenam vero juratorum, qui aliquid contra juramentum suum celaverint in hoc negotio, statutum erat, quod quicunque rusticus convictus fuisset de perjurio daret domino meliorem bovem de caruca sua, et insuper responderet de proprio, ad opus domini regis, tantum pecuniae quantum fuisset declaratum per suum perjurium fuisse celatum. Si vero liber homo convictus fuisset, esset in misericordia regis, et insuper refunderet de proprio, ad opus domini regis, quantum fuerit per eum celatum, sicut et rusticus.

Statutum etiam fuit, quod quilibet baro cum vicecomite faceret districtiones super homines suos, et si per defectum baronum districtiones factae non fuissent, caperetur de dominico baronum quod super homines suos restaret reddendum, et ipsi barones ad homines suos inde caperent: et libera feoda ecclesiarum parochialium de hoc tallagio excipiebantur, et omnes excaetae baronum quae fuerunt in manu domini regis communicaverunt. Serganteriae vero domini regis, quae non erant de feodis militum, excipiebantur, sed tamen imbreviabantur, et numerus carucatarum terrae et valentiae terrarum et nomina servientium; et omnes servientes illi summonebantur esse apud Lundonias in octavis clausi Pentecostes, audituri et facturi praeceptum domini regis. Ipsi vero qui electi fuerant et constituti ad hoc negotium regis faciendum, statuerunt, per aestimationem legalium hominum, ad uniuscujusque carucae wannagium centum acras terrae.

Ib. iv. 61. Eodem anno Hugo Bardulfi et magister Rogerus Arundel et Gaufridus Hachet, quibus commissae fuerant Lincolnsire, Notinghamsire, Derebisire, Everwicsire, Norhumberlande, Westmerilande, Cumberlande, Loncastre, itinerantes placitaverunt placita coronae regis. . . . 'Et capientur coram eis electiones magnae assisae per mandatum domini regis, vel ejus capitalis Justitiae.'

Ib. p. 63. His igitur et talibus vexationibus sive juste sive injuste tota Anglia a mari usque ad mare redacta est ad inopiam. Sed his nondum finitis, supervenit aliud genus tormenti ad confusionem hominum regni, per Justitiarios forestarum regis in Anglia, videlicet per Hugonem de Nevilla

summum justitiarium omnium forestarum regis in Anglia qui cognominatus est Cuvelu, et per Hugonem Wac, et per Ernisium de Neville. Praedictis igitur justitiariis forestarum itinerantibus praeceptum est ex parte regis, ut per singulos comitatus per quos ipsi ituri essent, convenirent coram eis, ad placita forestae, archiepiscopi, episcopi, comites, et barones, et omnes libere tenentes, et de unaquaque villa praepositus et quatuor homines, ad audienda praecepta regis.

Ib. p. 66. Eodem anno quia viri religiosi noluerunt dare regi quinque solidos de wannagio carucae sicut ceteri homines regni faciebant, exiit edictum a rege ut quicunque in regno suo forisfecisset clerico aut alii viro religioso non cogeretur satisfacere illi; sed si clericus aut alius vir religiosus forisfecisset alicui laico, statim compelleretur ad satisfaciendum illi: unde factum est, quod viri religiosi ad redemptionem coacti sunt.

A. D. 1194. Form of Proceeding on the Judicial Visitation.

The following is a list of the agenda of the 'iter' of the justices which began in September 1194. The general business of the visitation is of the usual mixed kind, judicial and financial, and should be compared with the Inquest of Sheriffs in 1170, as well as with the Assizes of 1166 and 1176. The introductory clause is important, as directing the election of the grand jury; it gives the form which was regularly followed in the next century (see Woodbine, *Four Thirteenth-Century Law Tracts*, p. 141). The 20th *capitulum*, as mentioning the coroner's office[1], also strictly elective, is equally remarkable. The 21st directs that a sheriff shall not be justice in his own county, and marks a distinct middle stage between the assize of 1166, in which the sheriffs share the office of justice with the itinerant barons, and the 24th clause of Magna Carta, which forbids them to hold pleas of the Crown. The application of jury inquest to the ascertaining of the king's rights, in cap. 23, is also, like the inquest of 1170, a precedent for similar acts

[1] It would seem that the office is older than the year of this assize.

under Henry III ; and this whole chapter, as well as cap. 24, has great social as well as constitutional significance. The 25th article seems to show that a general review of the whole financial system was contemplated, such as was again attempted in 1196, but was prevented by the death of the abbot of Caen (Hoveden, iv. 5 ; W. Newb. lib. v. c. 19), and was possibly connected with the complaints and sedition of William Fitz-Osbert. The 24th article bears witness to the importance of the Jews in the economic life of the country, and as a source of royal revenue. Richard orders in an earlier article (§ 9) that those responsible for the massacres of Jews in his coronation year shall be brought to justice, and that the property of the victims shall be enrolled. In art. 24 he provides for the future. All Jewish property is to be inventoried, and a record is to be kept of all their loans. This at once secures the king's interest as ultimate heir to every Jew, and makes it no longer profitable for the debtors of the Jews to conspire against their creditors. Henry II had granted a charter of privileges to the Jews of England and Normandy. Richard I renewed this in 1190 (Rymer, i. 51), in the form of a grant to the Rabbi Isaac ben Joseph. A similar charter was granted by John (Rot. Cart. i. 93). These privileges, and the legal rights and disabilities of the Jews in general, are analysed and classified by Mr. Jacobs in his *Jews of Angevin England*, p. 329 f.

Forma procedendi in placitis Coronae Regis.

In primis eligendi sunt quatuor milites de toto comitatu, qui per sacramentum suum eligant duos legales milites de quolibet Hundredo vel Wapentacco, et illi duo eligant super sacramentum suum x. milites de singulis Hundredis vel Wapentaccis ; vel, si milites defuerint, legales et liberos homines, ita quod illi xii. in simul respondeant de omnibus capitulis de toto Hundredo vel Wapentacco.

Capitula placitorum Coronae Regis.

1. De placitis coronae novis et veteribus et omnibus quae nondum sunt finita coram justitiariis domini regis.

2. Item de omnibus recognitionibus et omnibus placitis quae summonita sunt coram justitiariis per breve regis, vel capitalis justitiae, vel a capitali curia regis coram eis missa.

3. Item de eschaetis quae sint et quae fuerint postquam rex arripuit iter versus terram Jerusalem ; et quae fuerunt tunc in manu regis, et utrum sint modo in manu ejus, vel non : et de omnibus eschaetis domini regis si a manu sua sint remotae, quomodo et per quem et in cujus manus devenerint, et qualiter et quis exitus inde habuerit, et quos, et quid valuerint, et quid modo valeant ; et si aliqua exchaeta sit, quae ad dominum regem pertineat, quae in manu ejus non sit.

4. Item de ecclesiis quae sunt de donatione domini regis.

5. Item de custodiis puerorum quae ad dominum regem pertinent.

6. Item de maritagiis puellarum vel viduarum, quae ad dominum regem pertinent.

7. Item de malefactoribus et eorum receptoribus et eis consentientibus.

8. Item de falsonariis.

9. Item de interfectoribus Judaeorum, qui sint ; et de vadiis Judaeorum interfectorum, et catallis et terris et debitis et cartis ; et quis ea habuerit, et quis quantum eis debuerit, et quae vadia habuerint, et quis ea teneat, et quantum valeant, et quis exitus inde habuerit et quos ; et omnia vadia et debita Judaeorum interfectorum capiantur in manu regis ; et qui ad occisionem Judaeorum fuerunt et non fecerunt finem cum domino rege vel justitiariis suis, capiantur et non deliberentur nisi per dominum regem vel justitiarios suos.

10. Item de omnibus auxiliis datis ad redemptionem domini regis quis quantum promiserit et quantum reddiderit et quantum a retro sit.

11. Item de fautoribus comitis Johannis, qui finem cum domino rege fecerunt et qui non.

12. Item de catallis comitis Johannis vel fautorum ejus, quae ad usum domini regis non sunt conversa, et quantum vicecomites receperunt, vel baillivi sui, et quis aliquid contra antiquas consuetudines regni dederit.

13. Item de omnibus terris comitis Johannis, de dominicis et wardis, et exchaetis, et de donis suis, et qua de causa data sunt ; et illa dona, et omnia dona comitis Johannis capiantur in manu domini regis praeterquam illa quae per regem confirmata sunt.

14. Item de debitis et finibus quae debentur comiti Johanni, et qua de causa ; et omnia exigantur ad opus domini regis.

15. Item de foeneratoribus et eorum catallis, qui mortui sunt.

16. Item de vinis venditis contra assisam, et de falsis mensuris tam vini quam aliarum rerum.

17. Item de cruciatis mortuis ante iter suum arreptum versus Jerusalem, et quis eorum catalla habuerit et quae et quanta.

18. Item de magnis assisis, quae sunt de centum solidatis terrae et infra.

19. Item de defaltis.

20. Praeterea in quolibet comitatu eligantur tres milites et unus clericus custodes placitorum coronae.

21. Et nullus vicecomes sit justitiarius in vicecomitatu suo, nec in comitatu quem tenuerit post primam coronationem domini regis.

22. Praeterea tailleantur omnes civitates, et burgi et dominica domini regis.

23. Justitiarii vero nominati una cum baillivis Willelmi de Sanctae Mariae Ecclesia, et Gaufridi filii Petri et Willelmi de Chimelli, et Willelmi Bruere et Hugonis Bardulfi, et vicecomitum locorum, summoneri faciant milites in comitatu in rotulo nominatos, ut ad diem et locum quem eis scire facient, veniant, et coram eis jurare faciant illos quod legale posse suum ponent ad wardas et exchaetas domini regis instaurandas, et appretiandas ad commodum domini regis, nec alicujus odio, favore, vel gratia illud omittent : et quod praedicti milites nominati super sacramentum suum eligent duodecim legales milites, vel liberos et legales homines, si milites ad hoc inventi non fuerint, per diversas partes singulorum comitatuum in itinere praedictorum justitiarum, sicut expedire viderint : qui similiter jurent quod ad wardas et excaetas de partibus illis instaurandas et appretiandas et affirmandas suum legale posse et consilium et auxilium apponent ad commodum regis, ut praedictum est : et praedicti jurati supra sacramentum suum eligent de liberioribus hominibus excaetarum et wardarum quot et quales noverint esse sibi necessarios, ad praedicta domini regis negotia sicut melius fieri potest ad commodum domini regis exsequenda. Et sciendum est, quod praedictae wardae et exchaetae instaurabuntur de exitibus ex eis provenientibus usque ad festum Sancti Michaelis, et etiam de exitibus ejusdem termini. Et si haec non sufficiunt, supple-

bitur deficiens de teloneo domini regis, ita quod illi qui tenebunt wardas et exchaetas illas ad firmam, respondebunt inde a festo Sancti Michaelis et deinceps tanquam de stauratis. Dominus autem rex illis qui wardas illas et exchaetas ad firmam tenebunt, eas usque ad terminum suum de anno in annum warentizabit ; ita quod licet dominus rex aliquam illarum alicui dedisset, firmarius firmam suam tenebit usque ad finem anni per firmam ei reddendam, cui eam rex dederit, quam dominus rex inde perceperit. Justitia vero exchaetae quam dederit remaneat domino regi, nisi dominus rex illud nominatim dederit. Firmarius etiam cum firmam suam dimiserit, instauramentum suum et omnia sua quae in firmis posuerit, ultra instauramentum regis, libere et sine diminutione habebit ; et inde habebunt litteras domini archiepiscopi patentes, continentes tenorem cartae domini regis super hoc factae.

Inquiretur etiam diligentissime quantus sit assisus redditus per singula maneria in demenio, et quantum valeant omnia alia in praedictis maneriis assisa, et quot sunt carucae, et quantum singulae valeant, non aestimantes eas ad pretium xx. solidorum tantum, sed secundum quod terra fuerit vel bona vel mala, crescat vel decrescat pretium. Illi vero qui firmas suscipient, firmas suas instaurabunt, ut praedictum est, secundum pretium supradictum, de exitibus exchaetarum et wardarum.

Inquiratur etiam de quot bobus et averis singulae carucae valeant instaurari, et quot et quantum instauramentum singula maneria possint sustinere. Et tunc aperte et distincte in scriptum redigantur. Erit autem pretium bovis iv. solidi, et vaccae similiter, et averi similiter : et ovis crispae x. denarii ; et ovis lanae grossioris vi. denarii ; et suis xii. denarii, et verris xii. denarii : et cum firmarii firmas suas dimiserint, de praedicto pretio respondebunt vel de animalibus pacabilibus in optione firmariorum ; et cum omnia praedicta instaurata fuerint et appretiata, omnia inbrevientur aperte et distincte et deferantur ad scaccarium. Excipiuntur autem de hac assisa episcopatus et abbatiae et terrae baronum qui proximi sunt aetati.

Inquiratur etiam per sacramentum praedictorum de omnibus wardis et exchaetis quae non sunt in manu domini regis ; et capiantur in manu domini regis, et de illis fiat sicut de aliis exchaetis et wardis.

24. *Capitula de Judaeis.*

Omnia debita et vadia Judaeorum inbrevientur, terrae, domus, redditus et possessiones. Judaeus vero, qui aliquid horum celaverit, sit in forisfactura domini regis de corpore suo et concelamento, et de omnibus possessionibus suis et omnibus catallis suis, nec unquam concelamentum Judaeo recuperare licebit.

Item provideantur vi. vel vii. loca in quibus facient praestita sua; et provideantur ii. legales Christiani, et ii. legales Judaei, et ii. legales scriptores; et coram illis, et clerico Willelmi de Sanctae Mariae ecclesia et Willelmi de Chimilli fiant praestita, et cartae praestitorum fiant in modum chirographi; et altera pars remaneat Judaeo sigillata sigillo illius cui pecunia traditur; et altera pars remaneat in arca communi, in qua sunt tres serrurae, unde duo Christiani habent unam clavem, et duo Judaei unam, et clericus Willelmi de Sanctae Mariae ecclesia et magistri Willelmi de Chimilli habeat tertiam; et praeterea tria sigilla, et qui claves habuerint sigilla apponent. Clerici autem praedictorum Willelmi et Willelmi habeant rotulum de transcriptis omnium cartarum, et sicut cartae mutabuntur mutetur et rotulus; de singulis cartis dentur tres denarii; medietas a Judaeo, et medietas ab eo cui pecunia creditur: unde duo scriptores habeant duos denarios et custos rotuli tertium; et de cetero nullum fiet praestitum, nulla Judaeis fiet solutio, nulla fiet cartarum mutatio, nisi coram praedictis vel majori parte, si omnes interesse nequiverint. Et praedicti duo Christiani habeant unum rotulum de recepta Judaeorum solutionis eis de cetero faciendae; et duo Judaei unum, et custos rotuli unum.

Item quilibet Judaeus jurabit super rotulum suum quod omnia debita sua, et vadia, et redditus, et omnes res et possessiones suas inbreviari faciet, et quod nihil celabit, ut praedictum est. Et si scire poterit quod aliquis aliquid celaverit, illud justitiis ad eos missis secreto revelabit, et quod falsonarios cartarum et retonsores denariorum, ubi eos scient, detegent et monstrabunt, et de falsis cartis similiter.

25. Praeterea inquisitio quae quaerenda erat de prisis et tenseriis omnium ballivorum domini regis, tam justitiarum quam vicecomitum et constabulariorum et forestariorum et eorum servientium, post coronationem domini regis Ricardi primam, et quare prisae illae captae fuerunt, et per quem,

et de omnibus catallis, donis, et promissis factis occasione saisinae factae de terris comitis Johannis, et fautorum suorum, et quis ea receperit, et quae, et quantum,—dilationem cepit per mandatum Huberti Cantuariensis archiepiscopi, tunc temporis capitalis justitiarii regis.—(*Hoveden*, iii. 262–267.)

A.D. 1195. Proclamation for the Preservation of the Peace.

Archbishop Hubert as chief justice issued in 1195 the following order, the wording of which is partly taken from the Assize of Clarendon of 1166, but which is further a remarkable instance of the continuity of tone in this department of law from the earliest times ; as is shown by the enforcement of the hue and cry, and the appointment of knights to receive the oaths for the maintenance of the peace. The latter is probably the germ of the office of *Conservator of the Peace.* Knights were *assigned* to maintain the peace in 1253 and 1264 : in the reign of Edward I *custodes* or *conservatores* of the peace were, occasionally at least, elected by the counties, e.g. in 1285 to carry out the Statute of Winchester. The conservators of the peace were, according to the 1st Edward III. c. 16, *assigned*, as in the Act before us, and nominated by the Crown. In 1344 they were made a permanent staff of *custodes pacis*, who might occasionally be required to exercise judicial functions. Finally the Act of 1360 gave them power to try and to punish disturbers of the peace, felons, and dangerous persons. They took over all the criminal jurisdiction, which was still vested in the shire-court ; and to a large extent they superseded the Judges of Assize.

A.D. 1195. *Edictum Regium.*

Eodem anno praedictus archiepiscopus, totius Angliae justitiarius, misit per totam Angliam hujusmodi formam juramenti, videlicet :—Quod omnes homines regni Angliae pacem domini regis pro posse suo servabunt ; et quod nec latrones nec robatores nec eorum receptatores erunt, nec in aliquo eis consentient ; et quod cum hujusmodi malefactores scire

poterunt, illos pro toto posse suo capient et vicecomiti liberabunt, qui nullo modo deliberentur nisi per dominum regem vel capitalem Justitiam suam ; et si illos capere non poterunt, eos ballivis domini regis, quicunque fuerint, scire facient. Levato autem clamore insequendi utlagos, robatores, latrones, aut eorum receptatores, omnes sectam illam plene facient pro toto posse suo ; et si quem viderint vel manifestum fuerit sectam illam non fecisse, vel sine licentia se ab ea subtraxisse, eos tanquam malefactores ipsos capient et vicecomiti liberabunt, non deliberandos nisi per regem, aut ejus capitalem Justitiam. Milites vero ad hoc assignati facient venire omnes de ballia sua coram se a quindecim annis et ultra ; et jurare facient quod pacem domini regis, ut supradictum est, servabunt ; et quod nec utlagi, nec robatores, nec latrones, nec eorum receptatores erunt, nec in aliquo eis consentient ; et quod sectam, ut praedictum est, plenam facient ; et quod si cum malefactione aliquem ceperint, militibus in ballia sua super se positis et ad hoc assignatis, eum liberabunt, qui eum vicecomiti liberabunt custodiendum ; similiter, si aliquem viderint vel eis notum fuerit, levato clamore insequendi malefactores praedictos, qui sectam non fecerit, vel a secta illa se subtraxerit sine licentia, eum tanquam malefactorem ipsum capient, et militibus praedictis liberabunt, vicecomiti liberandum et custodiendum ut ipsum malefactorem ; nec liberandum nisi per praeceptum domini regis vel ejus capitalis Justitiae.—(*R. Hoveden*, iii. 299.)

Charters of Towns granted by Richard I.

Amongst the privileges sold by Richard I to every class of his subjects, none were more important than those which were obtained by the boroughs in their charters. These were generally drawn on the model of the charters of Henry II, but were far more widely diffused ; and contain in some instances a clause empowering the towns to elect their own reeves. The establishment of the *communa* of the citizens of London, which is recorded by the historians to have been specially confirmed by the barons and justiciar on the occasion of Longchamp's deposition from the justiciarship, is a matter of some difficulty, as the word *communa* is not found in English

town charters, and no formal record of this act of confirmation is now preserved. The *communa* of the French towns was a municipal constitution founded on a sworn confederacy of the citizens and subsequently confirmed by charter. With this idea the English gild-merchant had some features in common, although it was established for mercantile rather than political purposes: and the word *communa* seems to be used by Glanvill as equivalent to gild-merchant. In its more general meaning, however, *communa* must be understood to signify a corporate identity of the municipality, which it may have claimed before, and which may even have been occasionally recognized, but was now firmly established; a sort of consolidation into a single organized body of the variety of franchises, guilds, and other departments of local jurisdiction. It was connected with, and perhaps implied by, the nomination of a *Mayor*, who now appears for the first time. It is, however, too transitional a term to be defined with certainty; and the later application of the word *communitas*, like that of the still later *corporation*, is sometimes obscure; meaning *prima facie* the whole corporate town, but sometimes only the magistracy by whom the corporate rights were exercised.

A.D. 1189. *Charter of Richard I to Colchester* (*excerpt*).

Ricardus Dei gratia rex Anglorum, etc. Sciatis nos concessisse . . . burgensibus nostris Colecestriae quod ipsi ponant de se ipsis ballivos quoscumque voluerint et justiciam ad servanda placita Coronae nostrae, et ad placitanda eadem placita infra burgum suum, et quod nullus alius sit inde justicia nisi quem elegerint; et quod non placitent de aliquo placito extra muros ejusdem burgi; et sint quieti de scoth et de loth et de danegeldo et de murdro. Et ubicumque summoniti fuerint coram justiciariis nostris errantibus, licet acquietare eos per quatuor legales homines de ipso burgo. Et quod nullus eorum duellum faciat; et si aliquis illorum implacitatus fuerit de placito coronae nostrae, per sacramentum quod ei judicatum fuerit in burgo se disrationet. Et infra muros burgi nullus hospitetur de familia nostra neque

de alia, vi aut liberatione marescallorum. Et sint quieti per totam Angliam et per portus maris de theoloneo, de lastagio, de passagio, de pontagio et de omnibus aliis consuetudinibus . . . Et nullus burgensium judicetur de misericordia pecuniae nisi ad suam guerram, scilicet centum solidos in hundredo suo vel quolibet alio placito infra muros burgi, et de illa misericordia sit afforatus juramento prefatorum burgensium, et amplius non sit miskenning. Et volumus quod habeant omnes terras et debita et vadimonia, quicumque ea ipsis debeat. Et si quis theoloneum vel consuetudinem ab eis ceperit, iidem burgenses capiant de civitate vel de burgo vel de villa, in qua theoloneum vel consuetudo capta fuerit, quantum burgensis dicti burgi pro theoloneo dedit, vel quantum de dampno per hoc habuerit. Et precipimus quod illi qui eis debita debent bene et plenarie ea ipsis reddant, vel apud Colecestriam disrationent quod reddere non debeant . . .—[*Calendar of Charter Rolls*, i. 410.]

A.D. 1190. *Charter of Richard I to Winchester.*

Ricardus, Dei gratia, rex Angliae, dux Normanniae, etc. archiepiscopis, episcopis, abbatibus, comitibus, baronibus, justitiariis, vicecomitibus, ministris et omnibus baillivis et fidelibus suis totius terrae suae salutem. Sciatis nos concessisse civibus nostris Wintoniae de gilda mercatorum, quod nullus eorum placitet extra muros civitatis Wintoniae de ullo placito praeter placita de tenuris exterioribus, exceptis monetariis et ministris nostris. Concessimus etiam eis quod nullus eorum faciat duellum, et quod de placitis ad coronam nostram pertinentibus se possint diratiocinare secundum antiquam consuetudinem civitatis. Haec etiam eis concessimus, quod cives Wintoniae de gilda mercatorum sint quieti de theloneo et lestagio et pontagio in feria et extra, et per portus maris omnium terrarum nostrarum, citra mare et ultra ; et quod nullus de misericordia pecuniae judicetur nisi secundum antiquam legem civitatis quam habuerunt tempore antecessorum nostrorum ; et quod terras et tenuras suas et vadimonia et debita omnia juste habeant, quicunque eis debeat ; et de terris suis et tenuris quae infra urbem sunt, rectum eis teneatur secundum consuetudinem civitatis ; et de omnibus debitis suis quae accommodata fuerint apud Wintoniam et de vadimoniis ibidem factis, placita apud Wintoniam teneantur. Et si quis in tota terra nostra theloneum vel consuetudinem ab hominibus Wintoniae de gilda mercatorum

ceperit, postquam ipse a recto defecerit, vicecomes de Suthantonia vel praepositus Wintoniae namium inde apud Wintoniam capiat. Insuper etiam ad emendandam civitatem eis concessimus, quod omnes sint quieti de jeresgieve et de scotteshale, ita quod si vicecomes noster vel aliquis alius baillivus scotthale faciat. Has praedictas consuetudines eis concedimus et omnes alias libertates et liberas consuetudines quas habuerunt temporibus antecessorum nostrorum quando meliores vel liberiores habuerunt; et si aliquae consuetudines injustae levatae fuerint in guerra, cassatae sint; et quicunque petierint civitatem Wintoniae cum mercatu suo, de quocunque loco sint, sive extranei sive alii, veniant, morentur et recedant in salva pace nostra, reddendo rectas consuetudines, et nemo eos disturbet super hanc cartam nostram. Quare volumus et firmiter praecipimus quod ipsi et haeredes eorum haec omnia praedicta haereditarie habeant et teneant de nobis et haeredibus nostris. Testibus, W. Rothomagensi archiepiscopo, R. Bathoniensi, H. Coventrensi episcopis, Bertranno de Verdun, Johanne Marescallo, Willelmo Marescallo. Datum per manum Johannis de Alenconio archidiaconi Lexoviensis, vicecancellarii nostri, apud Nunancurte, XIV. die Martii, anno primo regni nostri.—(*Foedera*, i. 50.)

A.D. 1194. *Charter of Richard I to Lincoln.*

Ricardus, Dei gratia, rex Anglorum, dux Normannorum et Aquitannorum, comes Andegavorum, archiepiscopis, episcopis, abbatibus, comitibus, baronibus, justitiariis, vicecomitibus, ministris et omnibus fidelibus suis, tam Francis quam Anglis, salutem. Sciatis nos concessisse civibus nostris Lincolniae quod nullus eorum placitet extra civitatem Lincolniae de aliquo placito praeter placita de tenuris exterioribus, exceptis monetariis et ministris nostris. Concessimus etiam eis quietantiam murdri infra civitatem et in portsoca, et quod nullus eorum faciat duellum, et quod de placitis ad coronam pertinentibus se possint disrationare secundum consuetudinem civium civitatis Lundoniarum, et quod infra civitatem illam nemo capiat hospitium per vim vel per liberationem marescalli. Hoc etiam eis concessimus quod omnes cives Lincolniae sint quieti de theloneo et lestagio per totam Angliam et per portus maris, et quod nullus de misericordia pecuniae judicetur nisi secundum legem quam habent cives nostri Lundoniarum; et quod in civitate illa in nullo placito sit

miskenninga ; et quod burwaremot semel tantum in hebdomada teneatur ; et quod terras et tenuras et vadia sua et debita sua omnia juste habeant, quicunque eis debeat. Et de terris suis et tenuris quae infra civitatem sint, rectum eis teneatur secundum consuetudinem civitatis ; et de omnibus debitis suis quae accommodata fuerint apud Lincolniam, et de vadiis ibidem factis, placita apud Lincolniam teneantur. Et si quis in tota Anglia theloneum vel consuetudinem ab hominibus Lincolniae ceperit, postquam ipse a recto defecerit, praepositus Lincolniae namium apud Lincolniam capiat. Insuper etiam ad emendationem illius civitatis illis concessimus, quod sint quieti de bredtol, et de cildwite, et de gieresgieve, et de scotale, ita quod praepositus nec alius ballivus scotalam faciat. Has praedictas consuetudines eis concessimus et omnes alias libertates et liberas consuetudines, quas habuerunt vel habent cives nostri Lundoniarum quando meliores vel liberiores habuerint, secundum libertates Lundoniarum et leges civitatis Lincolniae.

Quare volumus et firmiter praecipimus quod ipsi et haeredes eorum haec omnia praedicta habeant et teneant haereditarie de nobis et haeredibus nostris, reddendo per annum novies viginti libras numero de Lincolnia cum omnibus pertinentiis ad scaccarium nostrum, duobus terminis, ad Pascham scilicet et ad festum Sancti Michaelis per manum praepositi Lincolniae. Et cives Lincolniae faciant praepositum quem voluerint de se per annum, qui sit idoneus nobis et eis. Testibus hiis ; H. Cantuariensi archiepiscopo ; Willelmo Marescallo ; Galfrido filio Petri ; Hugone Bardulf. Datum per manum Willelmi Eliensis episcopi cancellarii nostri apud Wintoniam, xxiii die Aprilis, anno regni nostri quinto.—(*Cal. Charter Rolls*, iii. 8.)

A.D. 1199–1216. JOHN

ARCHBISHOPS OF CANTERBURY : Hubert Walter, 1193–1205 ; Stephen Langton, 1207–1216. CHIEF JUSTICES : Geoffrey Fitz-Peter, 1199–1213 ; Peter des Roches, Bishop of Winchester, 1214–1215 ; Hubert de Burgh, 1215–1216. CHANCELLORS : Hubert Walter, 1199–1205 ; Walter Grey, 1205–1213 ; Peter des Roches, 1213–1214 ; Walter Grey, 1214 ; Richard de Marisco, 1214–1216.

Whether the account given by Matthew Paris of the election of John be true or false, it is certain that he succeeded to his brother's throne without any threat of opposition. The

claim which he derived from Richard's final disposition of his states was strengthened by the support of the queen mother, and the adherence of a numerous party which he had propitiated during the late reign ; and the absence of any feeling in favour of Arthur left the great ministers, and the baronage generally, no other course than to accept him as king. He, like Richard, issued no coronation charter, but took the usual oaths.

The administration of the country was managed by Archbishop Hubert and Geoffrey Fitz-Peter the Justiciar, during John's early years, on the same principles as it had been during Richard's reign ; it is to them that we must ascribe the maintenance of such constitutional forms as continued to exist, and of the peace of England. The amount of restraint which they exercised on John may be calculated, if we consider that immediately on the death of Hubert his quarrel with the Church broke out, whilst the death of the Justiciar in 1213 coincides with the beginning of the national struggle for liberty under the barons. But these ministers were not able to control altogether the tyrannical instincts of the king. His constant presence in England and his interference with the machinery of administration prevented them from combining, as they had done in Richard's reign, heavy taxation with the use and development of principles of self-government ; and from standing between the people and the king, at the cost of their own popularity. Close acquaintance with John disgusted the English, who had not realized the more distant faults of Richard.

Independently, however, of personal considerations, the reign was a critical one. That of Richard had witnessed the separation of the royal interest from that of the people ; that of John brought the interest of the people into the closest harmony with that of the baronage. The baronage was now composed, to a very great extent, of men whose fortunes had been made under the influence of Henry II, whose traditions were opposed to feudalism, and whose relations with Normandy were much less close than those of the older nobility The

first signs of the working of these causes are to be found in the default of any attempt to recover Normandy after its forfeiture and loss. The English barons were either averse to such an attempt, as involving foreign service, a fact which shows that their own stake in the duchy was but small; or incredulous of John's intention to make the effort, as they might justly be, when he was so ready to commute their service for money; or they saw no hope of success under a sovereign whose ability they underrated, whilst they estimated his sincerity at its true value. It would appear that the families which still had possessions on both sides the Channel either divided their estates, or, balancing their conflicting interests as well as they could, chose to forfeit a part rather than to fight for John.

In the ecclesiastical disputes, which are the next feature of the reign, John had to contend with the greatest of all the successors of S. Peter, and with a spirit in the national Church which was unquestionably maintained by the knowledge of the great power and success of the Pope in other parts of Christendom. The barons refrained from taking advantage of these peculiar difficulties, nor did their overt opposition to the king begin until his relations with the papacy had changed. As soon as the papal authority begins to back the royal tyranny, the barons determine to resist; and the Church having recovered, in Archbishop Langton, its natural leader, resumes its ordinary attitude as the supporter of freedom.

The country saw that the submission of John to Innocent placed its liberty, temporally and spiritually, at his mercy; and immediately demanded safeguards. These demands were drawn up on the ancient plan of a request for the restoration of good customs, and on the model of the charter of Henry I. The crisis, delayed by John's expedition to France in 1214, and by his attempts to dissolve the alliance made against him on his return, occurred early in the following year. Friends and enemies contributed their counsel and consent to the

granting of the Great Charter. The king's attempts to rid himself of the new obligation, and the support given to them by the Pope in opposition to the rights of the Church and nation, resulted in a determined attempt to dethrone him by foreign aid : a scheme which owed its only prospect of success to the personal hatreds which John had inspired, but which was so strong in that respect that, had it not been for the king's death, England would have most probably carried out a change in dynasty, the possible issues of which, both for herself and the world in general, are incalculable.

It seems paradoxical to state that neither John's tyranny nor its overthrow could have taken the form they took without the reforms of Henry II, but such seems to have been really the case. The technical principle on which here, as often elsewhere, so much that owes its existence to very different causes seems to turn, is the freedom of the vassals from service abroad : and this point comes into prominence during the thirteenth century in a way that would have been impossible but for the decay of feudalism, begun and developed under Henry II, and precipitated by the separation of Normandy from England under John.

Excerpts.

A.D. 1199. MATT. PARIS, ii. 454. Dux Normanniae Johannes transfretavit in Angliam et apud Sorham applicuit octavo kalendas Junii ; et in crastino, in vigilia videlicet Dominicae Ascensionis, Londonias venit ibidem coronandus. Congregatis itaque in adventu ejus archiepiscopis, episcopis, comitibus et baronibus atque aliis omnibus qui ejus coronationi interesse debuerant ; archiepiscopus stans in medio omnium dixit, 'Audite universi. Noverit discretio vestra quod nullus praevia ratione alii succedere habet in regnum, nisi ab universitate regni unanimiter invocata Sancti Spiritus gratia electus, et secundum morum suorum eminentiam praeelectus, ad exemplum et similitudinem Saul primi regis inuncti, quem praeposuit Dominus populo suo, non regis filium nec de regali stirpe procreatum ; similiter post eum David Jessae filium ; hunc quia strenuum et aptum dignitati

regiae, illum quia sanctum et humilem ; ut sic qui cunctos in regno supereminet strenuitate, omnibus praesit et potestate et regimine. Verum si quis ex stirpe regis defuncti aliis praepolleret, pronius et promptius in electionem ejus est consentiendum. Haec iccirco diximus pro inclito comite Johanne, qui praesens est, fratre illustrissimi regis nostri Ricardi jam defuncti, qui haerede caruit ab eo egrediente, qui providus et strenuus et manifeste nobilis, quem nos, invocata Spiritus Sancti gratia, ratione tam meritorum quam sanguinis regii unanimiter elegimus universi.' Erat autem archiepiscopus vir profundi pectoris et in regno singularis columna stabilitatis et sapientiae incomparabilis ; nec ausi sunt alii super his adhuc ambigere, scientes quod sine causa hoc non sic diffiniverat. Verum comes Johannes et omnes hoc acceptabant, ipsumque comitem in regem eligentes et assumentes exclamant dicentes ' Vivat rex Johannes.' Interrogatus autem postea archiepiscopus Hubertus quare haec dixisset, respondit se praesaga mente conjecturare et quibusdam oraculis edoctum et certificatum fuisse, quod ipse Johannes regnum et coronam Angliae foret aliquando corrupturus et in magnam confusionem praecipitaturus ; et ne haberet liberas habenas hoc faciendi, ipsum electione non successione haereditaria eligi debere affirmabat. Et sic imponens capiti ejus coronam unxit eum in regem apud Westmonasterium, scilicet in ecclesia principis apostolorum, Dominicae Ascensionis die, sexto kalendas Junii, Philippo Dunelmensi episcopo appellante sed non obtinente, ne coronatio illa fieret in absentia Gaufridi archiepiscopi Eboracensis.

A.D. 1200. ROG. HOVEDEN, iv. 107. Interim Johannes rex Angliae transfretavit de Normannia in Angliam et cepit de unaquaque carucata totius Angliae tres solidos de auxilio. . . . Procedente autem tempore, Johannes rex Angliae, bonorum virorum fretus consilio restituit praenominato archiepiscopo (Gaufrido) archiepiscopatum suum et statuit ei diem veniendi in curia sua ad monstrandum quare non transfretavit cum illo ad faciendam pacem cum rege Franciae, quando summonitus erat, et quare non permiserat servientes suos capere denarios carucarum de terra sua sicut in aliis partibus regni factum est : et quare verberaverat servientem vicecomitis Eboraci ; et ad reddendum regi tria millia marcarum argenti quae ipse debuit Ricardo regi Angliae fratri suo.

RAD. COGGESHALE, p. 101. Ad Angliam regreditur, auxilium ab omni regno expostulans. . . . Exiit ergo edictum a justitiariis regis per universam Angliam, ut quaelibet caruca arans tres persolveret solidos, quae nimirum gravis exactio valde populum terrae extenuavit, cum antea gravis exactio scutagii praecessisset; nam ad scutum duae marcae persolvebantur, cum nunquam amplius quam viginti solidi ad scutum exigerentur.

A.D. 1201. ROG. HOVEDEN, iv. 160, 161. Statim post Pascha praecepit rex ut comites et barones Angliae essent apud Portesmue ad Pentecosten, parati equis et armis ad transfretandum cum illo. . . . Interim comites Angliae convenerunt ad colloquium inter eos habitum apud Leicestre, et ex communi consilio mandaverunt regi quod non transfretarent cum illo, nisi ille reddiderit eis jura sua. Rex autem malo usus consilio petebat ab eis castella sua. . . .

Ib. p. 163. In hebdomada Pentecostes cum barones Angliae essent congregati apud Portesmue ad transfretandum cum rege, rex cepit de quibusdam illorum pecuniam quam expenderent in servitio suo, et permisit eos domum redire.

A.D. 1203. MATT. PARIS, ii. 483. In die Sancti Nicolai apud Portesmue (rex) applicuit. Deinde in comites et barones occasiones praetendens quod ipsum inter hostes reliquerant in partibus transmarinis, unde castella et terras suas pro eorum defectu amiserat, cepit ab eis septimam partem omnium mobilium suorum.

A.D. 1204. MATT. PARIS, ii. 484. In crastino Circumcisionis convenerunt ad colloquium apud Oxoniam rex et magnates Angliae, ubi concessa sunt regi auxilia militaria, de quolibet scuto scilicet duae marcae et dimidia; nec etiam episcopi et abbates sive ecclesiasticae personae sine promissione recesserunt.

A.D. 1205. MATT. PARIS, ii. 490. Circa Pentecosten rex Johannes congregavit exercitum grandem quasi mare transiturum; et prohibente sibi Cantuariensi archiepiscopo et aliis multis, apud Portesmue navium multitudinem copiosam coadunari fecit. Deinde rex cum parvo comitatu, idibus Julii, naves ascendit, et velis patentibus Neptuno se committens, mutato consilio, die tertia apud Stodtlant juxta Warham applicuit. Reversus autem rex cepit de comitibus, baronibus, militibus, et viris religiosis pecuniam infinitam, occasiones

praetendens quod nollent ipsum sequi ad partes transmarinas ut haereditatem amissam recuperaret.

A.D. 1207. ANN. WAVERL. (ed. Luard), p. 258. Rex Johannes post reditum suum a transmarinis, convocatis episcopis, abbatibus et prioribus, comitibus et baronibus et magnatibus regni, celebravit concilium Londoniis in octavis Circumcisionis ; ibique convenit episcopos et abbates, ut permitterent personas et beneficiatos ecclesiarum dare regi certam summam reddituum suorum. In quod cum non consentirent praelati ecclesiarum, data est dilatio usque ad sequens concilium celebrandum Oxoniae in octavis Purificationis beatae Mariae ; ibique congregata infinita multitudine praelatorum ecclesiae et magnatum regni, exegit ab episcopis et abbatibus quod prius exegerat ab eis. Sed consilio inito, omnes tam Cantuarienses quam Eboracenses metropolitani unanimiter responderunt, Anglicanam ecclesiam nullo modo sustinere posse quod ab omnibus saeculis prius fuit inauditum. Rex ergo saniori usus consilio exactionem illam penitus relaxavit. Postea generaliter statuit per universum regnum, ut omnis homo de cujuscunque feudo juraret pretium catallorum suorum de immobili et mobili, et de his daret decimam tertiam partem regi, ad recuperandam haereditatem suam in Normannia et in aliis terris suis. Ad quam colligendam misit ministros suos per universos comitatus Angliae : ab hac exactione liber erat ordo Cisterciensis . . .

1208 Ib. p. 260. Rex igitur hoc edicto generaliter pronunciato per Angliam, miro modo turbatus, praecepit confiscari per universum regnum suum omnes possessiones episcoporum et clericorum et virorum religiosorum, et omnia bona ecclesiastica, et misit per singulas provincias ministros suos tam clericos quam laicos ad confiscanda bona ecclesiarum. Qui circueuntes regionem saisiaverunt bona clericorum mobilia et immobilia intra et extra, committentes curam rerum illarum in singulis villis vicinis hominibus, per quorum manus clerici perciperent de rebus suis necessaria.

A.D. 1209. MATT. PARIS, ii. 526. Papa Innocentius . . . de consilio fratrum suorum cardinalium ad extirpandum radicitus ecclesiae scandalum, Londoniensi, Helyensi, et Wigorniensi episcopis dedit in mandatis, ut regem memoratum nominatim excommunicatum pronunciarent.

Ib., ii. 530. Deinde (sc. mense Septembri) Londonias

cum festinatione properans, fecit omnes Angliae praelatos in sua praesentia convenire. Venerunt autem ad hanc generalem vocationem abbates, priores, abbatissae, Templarii, Hospitalarii, custodes villarum ordinis Cluniacensis et aliarum regionum transmarinarum, cujuscunque dignitatis et ordinis; qui omnes ad tam gravem compulsi sunt redemptionem ac rerum ecclesiarum dilapidationem, quod summa extortae pecuniae excrevisse fertur ad centum millia libras sterlingorum. Albi quoque monachi de regno Angliae, aliis exceptis, quadraginta millia libras argenti in hoc tallagio, vellent nollent, cassatis privilegiis regi persolverunt.

A.D. 1211. MATT. PARIS, ii. 532. Rex Johannes cepit a militibus qui exercitui in Wallia non interfuerunt de quolibet scuto duas marcas argenti. . . .

Ib. p. 532. Habuit autem rex hac interdicti tempestate consiliarios iniquissimos, quorum nomina pro parte hic ponere non omittam :—Willelmus . . . frater regis et comes Sareberiensis, Albericus de Ver comes Oxoniensis, Gaufridus filius Petri Angliae justitiarius; tres episcopi curiales, Philippus Dunelmensis, Petrus Wintoniensis et Johannes Norwicensis; Ricardus de Marisco regis cancellarius, Hugo de Nevilla prothoforestarius, Willelmus de Wrotham custos portuum maris, Robertus de Veteri Ponte et Yvo frater ejus, Brienus de Insula, et Gaufridus de Luci, Hugo de Bailul, et Bernardus frater ejus, Willelmus de Cantelu et Willelmus filius ejus, Fulco de Canteleu, et Reginaldus de Cornhelle vicecomes Cantiae, Robertus de Braibroc et Henricus filius ejus, Philippus de Ulecotes, et Johannes de Bassingburne, Philippus Marci castellanus de Notingeham, Petrus de Maulei et Robertus de Gaugi, Gerardus de Atie et Ingelardus nepos ejus, Falco [de Breaute,] et Willelmus Briwere, Petrus filius Hereberti et Thomas Basset, et alii multi quos longum esset enumerare; qui regi in omnibus placere cupientes, consilium non pro ratione sed pro voluntate dederunt.

ANN. WAVERL. p. 266. Post festum Sancti Jacobi venerunt in Angliam Pandulfus et Durandus, nuncii domini papae, ad faciendam pacem inter regem et archiepiscopum.

Ib. p. 268. Die Martis proxima post festum Sancti Bartholomaei venientes nuncii domini papae apud Norhamton, scilicet Pandulfus et Durandus coram rege convocatis omnibus comitibus et baronibus Angliae, dominum regem alloquuntur. . . .

Rex, 'Quid magis?' Pandulfus, 'Absolvimus omnes unanimiter comites, barones, milites, francos, clericos, laicos et omnes Christianae fidei per terras tuas tibi subjectas, a fidelitatibus suis et homagio.' . . . Pandulfus vero discessit et transfretavit.

A.D. 1212. MATT. PARIS, ii. 534. Rex autem cum talia audisset (sc. de proditione provisa) perturbatus est valde et animo consternatus, atque cum intellexisset magnates Angliae a sua esse fidelitate absolutos, majorem litteris sibi destinatis fidem adhibuit. Unde propositum utiliter commutans jussit omnem exercitum ad propria remeare, veniensque ad urbem Londoniarum misit nuncios ad magnates universos sibi de fidelitate suspectos, exigens obsides ab eis, ut probaret qui vellent et qui nollent ejus obtemperare praeceptis. Illi vero, regiis jussionibus resistere non audentes, remiserunt filios, nepotes, et cognatos suos ad libitum regis, et sic indignatio ejus aliquantulum conquievit. Veruntamen Eustachius de Vesci et Robertus filius Walteri de proditione memorata accusati, et regi nimis suspecti, recesserunt ab Anglia, Eustachius videlicet in Scotiam, et Robertus ad Gallias divertentes. . . .

Ib. p. 536. Tunc papa gravi moerore propter desolationem regni Angliae confectus, de consilio cardinalium, episcoporum, et aliorum virorum prudentium, sententialiter diffinivit ut rex Anglorum Johannes a solio regni deponeretur, et alius, papa procurante, succederet qui dignior haberetur. Ad hujus quoque sententiae executionem scripsit dominus papa potentissimo regi Francorum Philippo, quatinus in remissionem omnium suorum peccaminum hunc laborem assumeret, et rege Anglorum a solio regni expulso, ipse et successores sui regnum Angliae jure perpetuo possiderent.

A.D. 1213. MATT. PARIS, ii. 537. Mense Januario redierunt a curia Romana Stephanus Cantuariensis archiepiscopus, Willelmus Londoniensis et Eustachius Elyensis episcopi, et, habito in partibus transmarinis concilio, regi Francorum et episcopis Gallicanis cum clero et populo sententiam, quae in regem Anglorum Romae pro contumacia lata fuerat, solemniter promulgarunt.

Ib. p. 541. Convenerunt apud Doveram decima tertia die Maii, videlicet die Lunae proxima ante Ascensionem Domini, Rex et Pandulfus, cum comitibus, baronibus et turba multa nimis, ubi in . . . pacis formam unanimiter consenserunt.

Ib. p. 544. . . . Convenerunt iterum rex Anglorum et Pandulfus cum proceribus regni apud domum militum Templi juxta Doveram, decima quinta die Maii, in vigilia scilicet Dominicae Ascensionis, ubi idem rex juxta quod Romae fuerat sententiatum resignavit coronam suam cum regnis Angliae et Hiberniae in manus domini papae, cujus tunc vices gerebat Pandulfus. . . .

Ib. p. 550. . . . Stephanus Cantuariensis archiepiscopus, Willelmus Londoniensis, Eustachius Elyensis, Hugo Lincolniensis, Egidius Herefordensis episcopi, cum ceteris clericis et laicis causa interdicti exulantibus, . . . apud Doveram XVII° kalendas Augusti applicantes, in die beatae Margaretae virginis Wintoniam ad regem venerunt . . . illum absolverunt. Et haec absolutio facta fuit in capitulo Wintoniensi. In hac autem absolutione juravit rex, tactis sacrosanctis evangeliis, quod sanctam ecclesiam ejusque ordinatos diligeret, defenderet et manuteneret contra omnes adversarios suos pro posse suo ; quodque bonas leges antecessorum suorum et praecipue leges Edwardi regis revocaret, et iniquas destrueret, et omnes homines suos secundum justa curiae suae judicia judicaret, quodque singulis redderet jura sua. . . .

In crastino autem misit rex litteras ad omnes vicecomites regni Angliae, praecipiens ut de singulis dominicorum suorum villis quatuor legales homines cum praeposito apud Sanctum Albanum pridie nonas Augusti facerent convenire, ut per illos et alios ministros suos de damnis singulorum episcoporum et ablatis certitudinem inquireret, et quid singulis deberetur. . . .

Ib. p. 551. Interfuerunt concilio apud Sanctum Albanum Galfridus filius Petri et episcopus Wintoniensis cum archiepiscopo et episcopis et magnatibus regni ; ubi cunctis pace regis denunciata ex ejusdem regis parte firmiter praeceptum est, quatinus leges Henrici avi sui ab omnibus in regno custodirentur, et omnes leges iniquae penitus enervarentur. Denunciatum est praeterea vicecomitibus, forestariis, aliisque ministris regis, sicut vitam et membra sua diligunt, ne a quoquam aliquid violenter extorqueant, vel alicui injuriam irrogare praesumant, aut scotalla alicubi in regno faciant, sicut facere consueverunt.

RAD. COGGESHALE. p. 167. Rex Angliae parato navigio in Pictaviam barones Northanhumbrenses invitavit ut secum transfretarent ; at illi pari animo eademque sententia contradixerunt, asserentes non in hoc ei obnoxios esse secundum munia terrarum suarum, sed et in expeditionibus Anglicanis

se nimis exhaustos et vehementer attenuatos. Rex igitur indignatus collectis militum copiis ipsos atterere voluit, sed Cantuariensis archiepiscopus eum rationabiliter arguens impetum ipsius compescuit.

MATT. PARIS, ii. 552. Eodem anno octavo kalendas Septembris convenerunt in civitate Londoniarum apud Sanctum Paulum Stephanus Cantuariensis archiepiscopus cum episcopis, abbatibus, prioribus, decanis et baronibus regni. . . . In hoc colloquio, ut fama refert, archiepiscopus memoratus, convocatis seorsum quibusdam regni proceribus, coepit affari eos secretius in hunc modum; 'Audistis' inquit 'quomodo tempore quo ipse apud Wintoniam regem absolvi, ipsum jurare compulerim quod leges iniquas destrueret et leges bonas, videlicet leges Eadwardi, revocaret et in regno faceret ab omnibus observari. Inventa est quoque nunc carta quaedam Henrici primi regis Angliae per quam, si volueritis, libertates diu amissas poteritis ad statum pristinum revocare.' . . .

ANN. WAVERL. pp. 277, 278. Dominus Nicolaus, episcopus Tusculanensis et cardinalis . . . . quinto kalendas Octobris veniens legatus in Angliam, quinto nonas Octobris apud Londoniam homagium domini Johannis suscepit. . . . In festo Sancti Nicolai per praeceptum Nicolai legati et archiepiscopi cong egati sunt apud Redinges omnes ecclesiastici praelati certissime sperantes aliquam restitutionem . . . infecto negotio . . . remearunt.

WALT. COVENT. ii. 217. Dissensio orta est inter Johannem regem Angliae et quosdam de proceribus pro scutagio quod petebat ab illis qui non ierant, nec miserant cum ipso in Pictaviam. Dantibus enim illud plurimis, contradixerunt ex Aquilonaribus nonnulli, illi videlicet qui anno praeterito regem ne in Pictaviam transiret impedierunt, dicentes se propter terras quas in Anglia tenent non debere regem extra regnum sequi nec ipsum euntem scutagio juvare. E contra rege id tanquam debitum exigente eo quod in diebus patris sui necnon et fratris sic fieret, res ulterius processisset nisi legati praesentia obstitisset.

A.D. 1214. MATT. PARIS, ii. 575, 582. Nicolaus Tusculanensis episcopus et apostolicae sedis legatus in die apostolorum beati Petri et Pauli in ecclesia cathedrali (Sancti Pauli) relaxavit solenniter sententiam interdicti. . . . Rex Anglorum Johannes, expletis agendis suis in partibus transmarinis, rediit

in Angliam XIV° kalendas Novembris. Sub eadem tempestate convenerunt ad colloquium apud Sanctum Eadmundum comites et barones Angliae quasi orationis gratia, licet in causa aliud fuisset. Nam cum diu simul et secretius tractare coepissent, producta est in medium carta quaedam regis Henrici primi, quam idem barones a Stephano Cantuariensi archiepiscopo, ut praedictum est, in urbe Londoniarum acceperant. . . . Itaque convenerunt universi ad ecclesiam Sancti Eadmundi, et incipientibus majoribus juraverunt super majus altare, quod si rex leges et libertates jam dictas concedere diffugeret, ipsi ei werram tamdiu moverent et ab ejus fidelitate se subtraherent, donec eis per cartam sigillo suo munitam confirmaret omnia quae petebant. Atque in hoc tandem communiter consenserunt, ut post Natale Domini simul omnes ad regem venientes, libertates praescriptas sibi peterent confirmari; atque interim in equis sibi et armis taliter providerent, quod, si forte rex a proprio vellet recedere juramento, quod bene credebant propter ejus duplicitatem, ipsi protinus per captionem castrorum suorum eum ad satisfactionem compellerent.

A.D. 1215. MATT. PARIS, ii. pp. 584–9. . . . Rex tenuit curiam suam ad Natale Domini apud Wigorniam vix per spatium unius diei; deinde cum festinatione Londonias veniens apud Novum Templum hospitio sese recepit. Venientesque ad regem ibidem supradicti magnates, in lascivo satis apparatu militari, petierunt quasdam libertates et leges regis Eadwardi cum aliis libertatibus sibi et regno Angliae et ecclesiae Anglicanae concessis confirmari, prout in carta regis Henrici primi et legibus praedictis ascriptae continentur. . . . Audiens autem rex . . . postulabat inducias usque ad clausum Pascha. . . . Rex autem interim volens sibi praecavere in posterum, fecit sibi soli contra omnes homines fidelitatem per totam Angliam jurare, et homagia renovare; et ut sibi melius provideret, in die Purificationis beatae Mariae Crucem Domini suscepit. . . . In hebdomada Paschae convenerunt apud Stamford magnates cum equis et armis, qui jam in sui favorem universam fere totius regni nobilitatem attraxerant; et exercitum inaestimabilem confecerunt, eo maxime quod rex exosum semper se omnibus exhibuit. Aestimati sunt namque in exercitu illo duo millia militum, praeter equites servientes et pedites. . . . Erat autem rex eo tempore apud Oxoniam. . . . Die Lunae . . . proxima post octavas Paschae barones memorati in villa de

Brakeleie pariter convenerunt. . . . (Rex) misit ad eos archiepiscopum Cantuariensem et Willelmum Marescallum comitem de Penbrock . . . sciscitans ab eis quae essent leges et libertates quas quaerebant. At illi nunciis praelibatis cedulam porrexerunt quae ex parte maxima leges antiquas et regni consuetudines continebat. . . . Tunc archiepiscopus cum sociis suis cedulam illam ad regem deferens capitula singula coram ipso memoriter recitavit. . . . Cum itaque Archiepiscopus et Willelmus Marescallus regem ad consensum inducere nullatenus potuissent, ad jussionem regis ad barones sunt reversi. . . . Magnates . . . constituerunt Robertum filium Walteri principem militiae, appellantes eum marescallum exercitus Dei et sanctae ecclesiae et sic singuli ad arma convolantes versus Norhamtunam acies direxerunt . . . infecto negotio ad castrum de Bedeford perrexerunt. . . . Venerunt itaque ad eos ibidem nuncii ab urbe Londoniarum, secretius eis indicantes quod, si vellent urbis ingressum habere, cum festinatione illuc venirent. . . . Ad Wares usque venerunt. . . . Nono kalendas Junii . . . Londoniensium civitatem sine aliquo tumultu intraverunt. Favebant enim baronibus divites civitatis, et ideo pauperes obloqui metuebant. . . . Et a civibus jam dictis accepta securitate, miserunt litteras ad comites, barones et milites illos qui adhuc per Angliam regi, licet ficte, adhaerere videbantur. . . . Hi omnes cum mandatum baronum accepissent, maxima pars eorum Londonias profecti, confoederati sunt magnatibus supradictis, regem penitus relinquentes. Cessaverunt placita scaccarii et vicecomitatuum per Angliam, quia nullus inventus est qui regi censum daret vel in aliquo obediret. . . . Statuerunt regi diem ut veniret contra eos ad colloquium in pratum inter Stanes et Windlesores situm, decimo quinto die Junii. Convenerunt itaque . . . Tandem igitur cum hinc inde varia sorte tractassent, rex Johannes, vires suas baronum viribus impares intelligens, sine difficultate leges . . . et libertates concessit.

MATT. PARIS, ii. p. 613. Rex . . . misit ad curiam Romanam Pandulfum . . . ut baronum propositum auctoritate apostolica irritarent. . . . Papa . . . cartam . . . cassavit . . . Anagniae, IX. kalendas Septembris.

Ib. p. 642. Summus pontifex barones quos prius excommunicaverat in genere . . . excommunicavit nominatim et in specie. . . . Laterani, XVII. kalendas Januarii.

ANN. WAVERL. p. 283. Interim applicuerunt in Anglia alienigenae barbari et magna multitudo diversarum linguarum errorem regis pertinaciter confoventes. His autem visis, superdicti magnates obstinationem regis punire desiderantes, communi consilio Lodowicum filium regis Franciae in principem Anglicanae insulae unanimiter elegerunt. . . . Tunc temporis Johannes rex omnia castella et munitiones habebat sub manu sua, sub custodia tamen alienigenarum, qui frequenter perambulabant terram vastantes eam et praedam ubicunque poterant capientes.

A.D. 1216. ANN. WAVERL. pp. 285, 286. In mense Maio . . . XII. kalendas Junii, Lodowicus . . . venit primo in Angliam. . . . Mense Octobri, scilicet XIV. kalendas Novembris, rex Johannes . . . in fata discessit apud castrum de Newerc. . . .

A.D. 1205. Writ for the levying of a Force for the Defence of the Kingdom.

This Act, although only an occasional expedient for the defence of the country, has considerable interest as proceeding from the 'Commune Consilium regni'. In its material aspect it is an advance on the Assize of Arms, which had directed the arming of the whole population according to a fixed scale, for the same purpose. The first provision bears on the military tenants only; the plan of raising a force by the contribution of the knights had been tried by Henry II in 1157: 'circa festivitatem S. Johannis Baptistae, rex Henricus praeparavit maximam expeditionem, ita ut duo milites de tota Anglia tertium pararent ad opprimendum Guallenses terra et mari.' *R. de Monte.* But although the following document is feudal in form, it bears distinct traces of connexion with the older militia system: it is clearly intended that the whole population should be armed to resist invasion, and we learn from Gervase that the organization of the *communa* in arms was to be carried out by local constables; the penalties for neglect or treachery carry us back to the laws of Ethelred (p. 86); and the whole Act should be compared with the statement of the Berkshire custom in Domesday-book (above, p. 107). The ancient *fyrd*

was the folkmoot in arms : the feudal levy was the Norman baronage performing the service due by tenure. The process now going on was a consolidation of the whole into the form which it took later under the writs of Henry III and Edward I for a general arming of the nation, addressed to each of the greater vassals separately, and, for the assembling of the lesser ones, to the sheriffs.

Rex, etc. Vicecomiti Rotelandae, etc. Scias quod provisum est cum assensu archiepiscoporum, episcoporum, comitum, baronum et omnium fidelium nostrorum Angliae, quod novem milites per totam Angliam invenient decimum militem bene paratum equis et armis ad defensionem regni nostri ; et quod illi novem milites inveniant decimo militi qualibet die ii. solidos ad liberationem suam. Et ideo tibi praecipimus quod, sicut teipsum et omnia tua diligis, provideas quod decimi milites de ballia tua sint apud Londonias a die Paschae in tres septimanas, bene parati equis et armis, cum liberationibus suis sicut praedictum est, parati ire in servitium nostrum quo praeceperimus et existere in servitio nostro ad defensionem regni nostri quantum opus fuerit. Provisum est etiam quod si alienigenae in terram nostram venerint, omnes unanimiter eis occurrant cum forcia et armis sine aliqua occasione et dilatione, auditis rumoribus de eorum adventu. Et si quis miles vel serviens vel alius terram tenens inventus fuerit, qui se inde retraxerit, dummodo tanta non fuerit gravatus infirmitate quod illuc venire non possit, ipse et haeredes sui in perpetuum exhaeredabuntur, et feodum suum remanebit domino fundi ad faciendum inde voluntatem suam ; ita quod exhaeredatus vel haeredes sui nunquam inde aliquam habeant recuperationem. Si qui vero milites, servientes, vel alii qui terram non habent, inventi fuerint qui se similiter retraxerint, ipsi et haeredes sui servi fient in perpetuum, reddendo singulis annis iiii. denarios de capitibus suis, nec pro paupertate omittant ad praedictum negotium venire cum illud audierint, quia ex quo ad exercitum venerint, providebitur unde sufficienter in servitio nostro poterunt sustentari. Si vero vicecomes vel ballivus vel praepositus illos qui se retraxerint nobis per breve vel per scriptum vel viva voce non ostenderint, dicti vicecomes vel ballivus vel praepositus remanebit in misericordia nostra de vita et membris. Et ideo tibi praecipimus quod sub festinatione haec

omnia proclamari facias in foris per totam balliam tuam, et in mercatis et nundinis et alibi, et ita te de negotio illo faciendo intromittas quod ad te pro defectu tui capere non debeamus. Et tu ipse sis apud Londonias ad praefatum terminum, vel aliquem discretum ex parte tua mittas, et facias tunc nobis scire nomina decimorum militum, et habeas ibi hoc breve. Teste me ipso apud Wintoniam III. die Aprilis.—(*Patent Rolls*, i. 55.)

A. D. 1205. Summons to a Great Council.

Rex episcopo Sarisburiensi. Mandamus vobis rogantes quatenus omni occasione et dilatione postpositis, sicut nos et honorem nostrum diligitis, sitis ad nos apud Londonias die Dominica proxima ante Ascensionem Domini, nobiscum tractaturi de magnis et arduis negotiis nostris et communi regni nostri utilitate, quoniam super hiis quae a rege Franciae per nuncios nostros et suos nobis mandata sunt, unde per Dei gratiam bonum speramus provenire, vestrum expedit habere consilium et aliorum magnatum terrae nostrae quos ad diem illum et locum fecimus convocari ; vos etiam ex parte nostra et vestra abbates et priores conventuales totius diocesis vestrae citari faciatis ut concilio praedicto nobiscum intersint, sicut diligunt nos et communem regni utilitatem.—(*Report on the Dignity of a Peer*, App. i. p. 1.)

A. D. 1207. Writ for the Assessment of the Thirteenth.

The ' thirteenth ' was exacted by John, notwithstanding the debate and the opposition of the clergy, at the council of Oxford, February 9, 1207. It appears from the Annals of Waverley (above, p. 268) that a fixed sum was originally demanded and refused ; and that the king withdrew the demand, but substituted for it the present exaction. The writ printed below speaks as though the tax were to be exacted from laymen alone, thus making it appear that the king had yielded to the claim of the clergy for exemption. But the clergy were nevertheless forced to contribute. Archbishop Geoffrey protested against the exaction and left the kingdom ; but the only effect of his protest was that the king seized his

temporalties. The process of assessment differs from that adopted by Henry II and Richard I (above, pp. 184, 189, 249), excluding the action of the juries, and adopting a plan, which was probably the earlier practice, of a more inquisitorial character. The system of assessment by jury reappears in the next reign.

A.D. 1207. REX omnibus, etc. Sciatis quod per commune consilium et assensum concilii nostri apud Oxoniam, provisum est ad defensionem regni nostri et recuperationem juris nostri [et] concessum est, quod quilibet laicus homo totius Angliae de cujuscunque feodo sit, qui habet in Anglia redditus et catalla, det nobis in auxilium de unaquaque mercata redditus sui annualis xii. denarios, et de unaquaque cujuslibet maneriei catalli mobilis quod habuit in octavis Purificationis Beatae Mariae, scilicet ad terminum concilii, xii. denarios, et sic secundum plus et minus. Et omnes senescalli et ballivi comitum et baronum jurabunt coram Justitiis nostris de valentia redditurum et catallorum mobilium dominorum suorum et de suis propriis similiter. Et quilibet homo praeter comites et barones jurabit de suis propriis redditibus et catallis secundum quod Justitiae nostri ad hoc transmissi utilitati nostrae melius viderint expedire. Et si aliquis convictus fuerit quod ad evitandum commodum nostrum fraudulenter amoverit catalla sua, vel in aliquo loco celaverit, vel in alicujus alterius potestate posuerit, vel minus quam valuerint appretiaverit, omnia catalla ejus capientur ad opus nostrum quieta et corpus ejus in prisonam nostram ponetur donec per nos deliberetur. Quodlibet autem hundredum in comitatu vestro imbrevietur per se et quaelibet parochia in quolibet hundredo per se, ita quod Justitiae nostri sciant de qualibet villa per se respondere. Cum autem Justitiae nostri auxilium istud in quolibet hundredo, civitate, vel villa assederint, statim transcribere facient a rotulis suis omnes particulas auxilii assisi, et liberentur vicecomiti colligendum per terminum quindenae in quindenam cum omni festinatione, et Justitiae nostri rotulos suos salvo penes se custodiant donec ad nos eos afferant. Statutum est etiam quod omnes clerici nostri et omnes Justitiae nostri et clerici eorum et omnes qui se in aliquo de negotio isto intromittent, jurabunt quod fideliter ex toto posse suo hoc negotium facient, sicut constitutum est et quod pro nulla re hoc omittent.

Praecipimus autem super vitam et membra quod quilibet denarius bonus et de legali pondere capiatur quamvis non sit novus, tam ad opus nostrum quam ad omnium aliorum regni nostri. Ad hoc autem auxilium in comitatu vestro assidendum mittimus loco nostro Robertum de Berkele, Ricardum de Mucegros, Willelmum de Falesia, magistrum R. de Glocestre, Walterum de Aura, Ad. filium Nigelli, etc. Et vobis praecipimus quod eis de hoc tanquam nobis sitis intendentes. T. me ipso apud Norhamton, XVII. die Februarii. —(*Patent Rolls*, i. 72.)

A.D. 1213. JOHN'S CONCESSION OF THE KINGDOM TO THE POPE.

This act of submission was made to Pandulf at Dover, on the 15th of May, 1213; and renewed to Nicolas Bishop of Tusculum at London on the 3rd of October with a golden *bulla*, and with the actual performance of liege homage here promised to the Pope. The form of the oath of homage was traditional. The obligations undertaken by King John are the same as those which Robert Guiscard had acknowledged in his oath of 1059 to Nicholas II (Watterich, *Pontificum Romanorum . . . Vitae*, i. p. 234). It is uncertain whether the concession of the kingdom was suggested from the Papal side, or spontaneously proposed by John. But it is clear that the form of John's oath was dictated by Pandulf.

JOHANNES, Dei gratia, rex Angliae, dominus Hiberniae, dux Normanniae, et Aquitanniae, comes Andegaviae, omnibus Christi fidelibus praesentem cartam inspecturis, salutem. Universitati vestrae per hanc cartam nostram sigillo nostro munitam volumus esse notum, quia cum Deum et matrem nostram sanctam ecclesiam offenderimus in multis et proinde Divina misericordia plurimum indigere noscamur, nec quid digne offerre possimus pro satisfactione Deo et ecclesiae debita facienda, nisi nos ipsos et regna nostra humiliemus :— Volentes nos ipsos humiliare pro Illo Qui Se pro nobis humiliavit usque ad mortem, gratia Sancti Spiritus inspirante, non vi inducti nec timore coacti, sed nostra bona spontaneaque voluntate ac communi consilio baronum nostrorum, offerimus et libere concedimus Deo et sanctis apostolis Ejus Petro et

Paulo et sanctae Romanae ecclesiae matri nostrae, ac domino nostro papae Innocentio ejusque catholicis successoribus, totum regnum Angliae et totum regnum Hiberniae, cum omni jure et pertinentiis suis, pro remissione peccatorum nostrorum et totius generis nostri tam pro vivis quam defunctis ; et amodo illa a Deo et ecclesia Romana tanquam feodatarius recipientes et tenentes, in praesentia prudentis viri Pandulfi, domini papae subdiaconi et familiaris, fidelitatem exinde praedicto domino nostro papae Innocentio, ejusque catholicis successoribus et ecclesiae Romanae, secundum subscriptam formam facimus et juramus, et homagium ligium in praesentia domini papae, si coram eo esse poterimus, eidem faciemus ; successores et haeredes nostros de uxore nostra in perpetuum obligantes, ut simili modo summo pontifici qui pro tempore fuerit, et ecclesiae Romanae, sine contradictione debeant fidelitatem praestare et homagium recognoscere. Ad indicium autem hujus perpetuae nostrae obligationis et concessionis volumus et stabilimus, ut de propriis et specialibus redditibus praedictorum regnorum nostrorum, pro omni servitio et consuetudine quod pro ipsis facere deberemus, salvo per omnia denario beati Petri, ecclesia Romana mille marcas sterlingorum percipiat annuatim, scilicet in festo Sancti Michaelis quingentas marcas et in Pascha quingentas marcas ; septingentas scilicet pro regno Angliae et trecentas pro regno Hiberniae : salvis nobis et haeredibus nostris justitiis, libertatibus, et regalibus nostris, quae omnia, sicut supradicta sunt, rata esse volentes perpetuo atque firma, obligamus nos et successores nostros contra non venire. Et si nos vel aliquis successorum nostrorum hoc attemptare praesumpserit, quicunque fuerit, ille, nisi rite commonitus resipuerit, cadat a jure regni, et haec carta obligationis et concessionis nostrae semper firma permaneat.

Form of the oath of fealty.

Ego Johannes, Dei gratia, rex Angliae et dominus Hiberniae, ab hac hora inantea fidelis ero Deo et beato Petro et ecclesiae Romanae ac domino meo papae Innocentio ejusque successoribus catholice intrantibus : non ero in facto, dicto, consensu vel consilio, ut vitam perdant vel membra, vel mala captione capiantur. Eorum damnum, si scivero, impediam et removere faciam si potero : alioquin quam citius potero, intimabo vel tali personae dicam quam eis credam pro certo dicturam. Consilium quod mihi crediderint, per se vel per nuncios suos

seu per litteras suas, secretum tenebo et ad eorum damnum nulli pandam, me sciente. Patrimonium beati Petri et specialiter regnum Angliae et regnum Hiberniae, adjutor ero ad tenendum et defendendum contra omnes homines pro posse meo. Sic Deus me adjuvet et haec sancta Evangelia.

Teste me ipso apud domum Militiae Templi juxta Doveriam, coram domino H. archiepiscopo Dublinensi, domino J. Norwycensi episcopo; G. filio Petri comite Essexiae justitiario nostro; W. comite Saresberiensi fratre nostro; W. Marescallo comite Penbrociae; R. comite Boloniensi; W. comite Warenniae; S. comite Wintoniae; W. comite Arundelli; W. comite de Ferreriis; W. Briwer; Petro filio Hereberti; Warino filio Geroldi; XV° die Maii, anno regni nostri XIV^to^. —(*Foedera*, i. 111, 112.)

A.D. 1213. Summons to a Great Council.

After making submission to the legate at Dover, May 15th, John remained in Kent, Sussex, and Hampshire, preparing for an expedition to France, on which, as he was still excommunicate, the barons refused to accompany him. Archbishop Langton landed at Dover July 16th, and absolved the king at Winchester on the 20th, he having sworn to make restitution to the Church, and, moreover, renewed his coronation oath. Having summoned a council to meet at S. Albans on the 4th of August, he made a second attempt to induce the barons to embark. This was defeated by the determination of the nobles of Northern England, who had benefited the most by the legal measures of Henry II, and whose descendants formed the bulk of the Lancastrian party of later constitutional history. Whilst the council of S. Albans was learning from the justiciar the extent of the rights to which John had sworn, and the archbishop was instructing the barons at S. Paul's in the laws of Henry I (August 25), John was preparing for a journey to the North to punish the recalcitrant nobles. The archbishop hastened to Nottingham and prevailed on him to take judicial steps; but he proceeded as far as Durham (September 14), whence he returned equally rapidly to meet

the legate and renew his submission (October 3) at London. The following document is a summons for a council at Oxford, of whose proceedings there is no record: it is the first writ in which the 'four discreet men' of the county appear as representatives; the first instance of the summoning of the folkmoot to a general assembly by the representative machinery already used for judicial purposes. The four men and the reeve had from time immemorial represented the township in the shiremoot; now the four men and the sheriff represent the shiremoot in the national council.

Rex Vicecomiti Oxon. salutem. Praecipimus tibi quod omnes milites baillivae tuae, qui summoniti fuerunt esse apud Oxoniam ad nos a die Omnium Sanctorum in quindecim dies venire facias cum armis suis; corpora vero baronum sine armis similiter; et quatuor discretos milites de comitatu tuo illuc venire facias ad nos ad eundem terminum ad loquendum nobiscum de negotiis regni nostri. Teste me ipso apud Wytteñ. VII. die Novembris.

Eodem modo scribitur omnibus vicecomitibus.—(*Report on the Dignity of a Peer*, App. i. p. 2.)

A.D. 1214. Grant of freedom of Election to Churches.

The winter of 1213 was spent in comparative quietness, and early in February 1214 John went abroad. He returned on the 15th of October. During this time the damages of the Church were assessed and the Interdict relaxed (June 29). The king was met on his return by the news that the barons at S. Edmunds had sworn to demand the charter of Henry I, and were prepared after Christmas to force him to grant their claims. It was probably as an attempt to separate the clergy from the barons that he issued the following charter on the 21st of November. It was reissued on the 15th of January, 1215, and confirmed by the Pope; but it failed to sow dissension in the national party.

The right of the chapters to elect their bishops, and of the monasteries to elect their abbots, although strictly canonical,

had long been lost sight of in England. In the eighth and ninth centuries several cases of election to bishoprics may be found, in which, the national Church being stronger than the heptarchic king, the choice was probably free. But under the West-Saxon kings the appointments were generally made in the Witenagemot, and under the Normans by the king in his great courts. The form of election was restored under Henry I, the great Roger of Salisbury being, it is said, the first bishop canonically chosen ; but the process took place under the eye of the king or justiciar, and was only nominally free. This was (taken in connexion with the royal claims to the revenue of a see during its vacancy, a vacancy which the king could prolong at his pleasure) a very heavy grievance ; and it was probably with a view of propitiating Archbishop Langton that the reform was now proposed.

Carta Johannis Regis ut liberae sint electiones totius Angliae.

Johannes Dei gratia rex Angliae, dominus Hiberniae, dux Normanniae et Aquitanniae, comes Andegaviae, archiepiscopis, episcopis, comitibus, baronibus, militibus, ballivis et omnibus has litteras visuris vel audituris salutem. Quoniam inter nos et venerabiles patres nostros Stephanum Cantuariensem archiepiscopum totius Angliae primatem et Sanctae Romanae Ecclesiae Cardinalem, Willelmum Londoniensem, Eustachium Elyensem, Aegydium Herefordensem, Joscelinum Bathoniensem et Glastoniensem, et Hugonem Lincolniensem episcopos, super dampnis et ablatis tempore interdicti, per Dei gratiam de mera et libera voluntate utriusque partis plene convenit ; volumus non solum eis quantum secundum Deum possumus satisfacere, verum etiam toti ecclesiae Anglicanae salubriter et utiliter in perpetuum providere : inde est quod qualiscunque consuetudo temporibus nostris et praedecessorum nostrorum hactenus in ecclesia Anglicana fuerit observata, et quicquid juris nobis hactenus vendicaverimus in electionibus quorumcunque praelatorum, nos ad petitionem ipsorum pro salute animae nostrae et praedecessorum ac successorum nostrorum regum Angliae, liberaliter mera et spontanea voluntate, de communi consensu baronum nostrorum, concessimus et constituimus et hac praesenti carta nostra

confirmavimus, ut de cetero in universis et singulis ecclesiis et monasteriis cathedralibus et conventualibus totius regni nostri Angliae, liberae sint in perpetuum electiones quorumcunque praelatorum majorum et minorum ; salva nobis et haeredibus nostris custodia ecclesiarum et monasteriorum vacantium quae ad nos pertinent. Promittimus etiam quod nec impediemus nec impediri permittemus per nostros nec procurabimus, quin in singulis et universis ecclesiis et monasteriis memoratis, postquam vacaverint praelaturae, quandocunque voluerint, libere sibi praeficiant electores pastorem ; petita tamen prius a nobis et haeredibus nostris licentia eligendi, quam non denegabimus, nec differemus. Et si forte, quod absit, denegaremus vel differremus, procedant nihilominus electores ad electionem canonicam faciendam : et similiter post celebratam electionem noster requiratur assensus, quem similiter non denegabimus nisi aliquid rationabile proposuerimus et legitime probaverimus, propter quod non debeamus consentire. Quare volumus et firmiter inhibemus ne quis vacantibus ecclesiis vel monasteriis contra hanc nostram concessionem et constitutionem in aliquo veniat vel venire praesumat. Si quis vero contra hoc aliquo unquam tempore venerit, maledictionem Omnipotentis Dei et nostram incurrat. Hiis testibus, Petro Wintoniensi episcopo, Willelmo Mariscallo comite Penbrokiae, Willelmo comite Warenniae, Randulfo comite Cestriae, Saherio comite Wintoniae, Gaufrido de Mandevilla comite Gloucestriae et Essexiae, Willelmo comite de Ferreriis, Willelmo Brewer, Warino filio Geroldi, Willelmo de Cantilupo, Hugone de Nevilla, Roberto de Ver, Willelmo de Huntingfeld. Data per manum magistri Ricardi de Marisco, Cancellarii nostri, apud Novum Templum Londoniis, vicesimo primo die Novembris anno regni nostri sexto decimo. —(*Statutes of the Realm, Charters of Liberties*, p. 5.)

A.D. 1215. Articles of the Barons.

On the feast of the Epiphany, 1215, the barons made known their claims to the king. John, after attempting by personal solicitation to break up the party, promised an answer after Easter. He then reissued the charter to the clergy (January 15); directed the oath of fealty and homage to be taken throughout England, and enlisted himself as a Crusader ; both parties in

the meantime consulting the Pope. On the 27th of April, the day fixed for the king's answer, the barons assembled in force at Brackley. The king, who was at Oxford, sent to ask the details of their claims; and whilst refusing to grant them, proposed (May 10) an arbitration to be made by the pope and eight persons, four chosen by himself and four by the barons. But before this was done they had (May 5), at Reading or at Wallingford, renounced their allegiance to John, and begun to attack the royal castles. On the 24th of May they were received at London, and the king's remaining friends began to negotiate with them. A meeting was agreed on for the 9th of June, but postponed to the 15th, when the barons presented the following Articles, and the Great Charter, in which the king accepted the terms, was prepared. Curiously enough there is a doubt as to the day on which Magna Carta was issued. It is dated June 15; but in several writs the king speaks of June 19 as the day on which peace was concluded. Probably the Articles were accepted as the basis of peace on June 15, and the final copy of Magna Carta was only sealed on June 19. The two documents differ in some interesting respects. For example: § 32 of the Articles demands a privilege for towns with charters similar to that of London, but Magna Carta (§ 12) limits this privilege to London.

The text of the present edition has been collated with that given by M. Charles Bémont in his *Chartes des Libertés anglaises* (1892).

Ista sunt Capitula quae Barones petunt et dominus Rex concedit.

1. Post decessum antecessorum haeredes plenae aetatis habebunt haereditatem suam per antiquum relevium exprimendum in carta.

2. Haeredes qui infra aetatem sunt et fuerint in custodia, cum ad aetatem pervenerint habebunt haereditatem suam sine relevio et fine.

3. Custos terrae haeredis capiat rationabiles exitus, consuetudines, et servitia, sine destructione et vasto hominum

et rerum suarum, et si custos terrae fecerit destructionem et vastum, amittat custodiam; et custos sustentabit domos, parcos, vivaria, stagna, molendina et cetera, ad terram illam pertinentia, de exitibus terrae ejusdem; et ut haeredes ita maritentur ne disparagentur et per consilium propinquorum de consanguinitate sua.

4. Ne vidua det aliquid pro dote sua, vel maritagio, post decessum mariti sui, sed maneat in domo sua per xl. dies post mortem ipsius, et infra terminum illum assignetur ei dos; et maritagium statim habeat et haereditatem suam.

5. Rex vel ballivus non saisiet terram aliquam pro debito dum catalla debitoris sufficiunt; nec plegii debitoris distringantur, dum capitalis debitor sufficit ad solutionem; si vero capitalis debitor defecerit in solutione, si plegii voluerint, habeant terras debitoris donec debitum illud persolvatur plene, nisi capitalis debitor monstrare poterit se esse inde quietum erga plegios.

6. Rex non concedet alicui baroni quod capiat auxilium de liberis hominibus suis, nisi ad corpus suum redimendum, et ad faciendum primogenitum filium suum militem, et ad primogenitam filiam suam semel maritandam, et hoc faciet per rationabile auxilium.

7. Ne aliquis majus servitium faciat de feodo militis quam inde debetur.

8. Ut communia placita non sequantur curiam domini regis sed assignentur in aliquo certo loco; et ut recognitiones, capiantur in eisdem comitatibus, in hunc modum; ut rex mittat duos justiciarios per iiii^{or} vices in anno, qui cum iiii^{or} militibus ejusdem comitatus electis per comitatum, capiant assisas de nova dissaisina, morte antecessoris, et ultima praesentatione, nec aliquis ob hoc sit summonitus nisi juratores et duae partes.

9. Ut liber homo amercietur pro parvo delicto secundum modum delicti, et pro magno delicto secundum magnitudinem delicti, salvo continemento suo; villanus etiam eodem modo amercietur, salvo waynagio suo; et mercator eodem modo, salva marcandisa, per sacramentum proborum hominum de visneto.

10. Ut clericus amercietur de laico feodo suo secundum modum aliorum praedictorum, et non secundum beneficium ecclesiasticum.

11. Ne aliqua villa amercietur pro pontibus faciendis ad riparias, nisi ubi de jure antiquitus esse solebant.

12. Ut mensura vini, bladi, et latitudines pannorum et rerum aliarum, emendetur ; et ita de ponderibus.

13. Ut assisae de nova dissaisina et de morte antecessoris abbrevientur ; et similiter de aliis assisis.

14. Ut nullus vicecomes intromittat se de placitis ad coronam pertinentibus sine coronatoribus ; et ut comitatus et hundreda sint ad antiquas firmas absque nullo incremento, exceptis dominicis maneriis regis.

15. Si aliquis tenens de rege moriatur, licebit vicecomiti vel alii ballivo regis seisire et imbreviare catallum ipsius per visum legalium hominum, ita tamen quod nihil inde amoveatur, donec plenius sciatur si debeat aliquod liquidum debitum domino regi ; et tunc debitum regis persolvatur, residuum vero relinquatur executoribus ad faciendum testamentum defuncti ; et si nihil regi debetur omnia catalla cedant defuncto.

16. Si aliquis liber homo intestatus decesserit, bona sua per manum proximorum parentum suorum et amicorum et per visum ecclesiae distribuantur.

17. Ne viduae distringantur ad se maritandum, dum voluerint sine marito vivere ; ita tamen quod securitatem facient quod non maritabunt se sine assensu regis, si de rege teneant, vel dominorum suorum de quibus tenent.

18. Ne constabularius vel alius ballivus capiat blada vel alia catalla, nisi statim denarios inde reddat, nisi respectum habere possit de voluntate venditoris.

19. Ne constabularius possit distringere aliquem militem ad dandum denarios pro custodia castri, si voluerit facere custodiam illam in propria persona vel per alium probum hominem, si ipse eam facere non possit per rationabilem causam ; et si rex eum duxerit in exercitum, sit quietus de custodia secundum quantitatem temporis.

20. Ne vicecomes, vel ballivus regis, vel aliquis alius, capiat equos vel carettas alicujus liberi hominis pro cariagio faciendo, nisi ex voluntate ipsius.

21. Ne rex vel ballivus suus capiat alienum boscum ad castra vel ad alia agenda sua, nisi per voluntatem ipsius cujus boscus ille fuerit.

22. Ne rex teneat terram eorum qui fuerint convicti de felonia, nisi per unum annum et unum diem, sed tunc reddatur domino feodi.

23. Ut omnes kidelli de cetero penitus deponantur de Tamisia et Medeweye et per totam Angliam.

24. Ne breve quod vocatur *praecipe* de cetero fiat alicui de aliquo tenemento unde liber homo amittat curiam suam.

25. Si quis fuerit disseisitus vel prolongatus per regem sine judicio de terris, libertatibus, et jure suo, statim ei restituatur ; et si contentio super hoc orta fuerit, tunc inde disponatur per judicium xxv. baronum ; et ut illi qui fuerint dissaisiti per patrem vel fratrem regis rectum habeant sine dilatione per judicium parium suorum in curia regis ; et si rex debeat habere terminum aliorum cruce signatorum, tunc archiepiscopus et episcopi faciant inde judicium ad certum diem, appellatione remota.

26. Ne aliquid detur pro brevi inquisitionis de vita vel membris, sed libere concedatur sine pretio et non negetur.

27. Si aliquis tenet de rege per feodi firmam, per sokagium, vel per burgagium, et de alio per servitium militis, dominus rex non habebit custodiam militum de feodo alterius, occasione burgagii vel sokagii, nec debet habere custodiam burgagii, sokagii, vel feodi firmae ; et quod liber homo non amittat militiam suam occasione parvarum sergantisarum sicuti de illis qui tenent aliquod tenementum reddendo inde cuttellos vel sagittas vel hujusmodi.

28. Ne aliquis ballivus possit ponere aliquem ad legem simplici loquela sua sine testibus fidelibus.

29. Ne corpus liberi hominis capiatur, nec imprisonetur, nec dissaisietur, nec utlagetur, nec exuletur, nec aliquo modo destruatur, nec rex eat vel mittat super eum vi, nisi per judicium parium suorum vel per legem terrae.

30. Ne jus vendatur vel differatur vel vetitum sit.

31. Quod mercatores habeant salvum ire et venire ad emendum vel vendendum, sine omnibus malis toltis per antiquas et rectas consuetudines.

32. Ne scutagium vel auxilium ponatur in regno, nisi per commune consilium regni, nisi ad corpus regis redimendum, et primogenitum filium suum militem faciendum, et filiam suam primogenitam semel maritandam ; et ad hoc fiat rationabile auxilium. Simili modo fiat de taillagiis et auxiliis de civitate Londoniarum, et de aliis civitatibus quae inde habent libertates; et ut civitas Londoniarum plene habeat antiquas libertates et liberas consuetudines suas, tam per aquas, quam per terras.

33. Ut liceat unicuique exire de regno et redire, salva fide domini regis, nisi tempore werrae per aliquod breve tempus propter communem utilitatem regni.

34. Si quis mutuo aliquid acceperit a Judaeis plus vel minus, et moriatur antequam debitum illud solvatur, debitum non usurabit quamdiu haeres fuerit infra aetatem, de quocumque teneat; et si debitum illud inciderit in manum regis, rex non capiet nisi catallum quod continetur in carta.

35. Si quis moriatur et debitum debeat Judaeis, uxor ejus habeat dotem suam; et si liberi remanserint, provideantur eis necessaria secundum tenementum; et de residuo solvatur debitum salvo servitio dominorum; simili modo fiat de aliis debitis; et ut custos terrae reddat haeredi, cum ad plenam aetatem pervenerit, terram suam instauratam secundum quod rationabiliter poterit sustinere de exitibus terrae ejusdem de carucis et wainnagiis.

36. Si quis tenuerit de aliqua eskaeta, sicut de honore Walingefordiae, Notingeham, Bononiae, et Lankastriae, et de aliis eskaetis quae sunt in manu regis et sunt baroniae, et obierit, haeres ejus non dabit aliud relevium vel faciet regi aliud servitium quam faceret baroni; et ut rex eodem modo eam teneat quo baro eam tenuit.

37. Ut fines qui facti sunt pro dotibus, maritagiis, haereditatibus, et amerciamentis, injuste et contra legem terrae, omnino condonentur; vel fiat inde per judicium xxv. baronum, vel per judicium majoris partis eorumdem, una cum archiepiscopo et aliis quos secum vocare voluerit, ita quod, si aliquis vel aliqui de xxv. fuerint in simili querela, amoveantur et alii loco illorum per residuos de xxv. substituantur.

38. Quod obsides et cartae reddantur, quae liberatae fuerunt regi in securitatem.

39. Ut illi qui fuerint extra forestam non veniant coram justiciariis de foresta per communes summonitiones, nisi sint in placito vel plegii fuerint; et ut pravae consuetudines de forestis et de forestariis, et warenniis, et vicecomitibus, et rivariis, emendentur per xii. milites de quolibet comitatu, qui debent eligi per probos homines ejusdem comitatus.

40. Ut rex amoveat penitus de balliva parentes et totam sequelam Gerardi de Atyes; quod de cetero balliam non habeant; scilicet Engelardum, Andream, Petrum, et Gyonem de Cancellis, Gyonem de Cygony, Matthaeum de Martiny, et fratres ejus; et Galfridum nepotem ejus et Philippum Mark.

41. Et ut rex amoveat alienigenas milites stipendiarios balistarios, et ruttarios, et servientes qui veniunt cum equis et armis ad nocumentum regni.

42. Ut rex faciat justiciarios, constabularios, vicecomites, et ballivos, de talibus qui sciant legem terrae et eam bene velint observare.

43. Ut barones qui fundaverunt abbatias, unde habent cartas regum vel antiquam tenuram, habeant custodiam earum cum vacaverint.

44. Si rex Walenses dissaisierit vel elongaverit de terris vel libertatibus, vel de rebus aliis in Anglia vel in Wallia, eis statim sine placito reddantur ; et si fuerint dissaisiti vel elongati de tenementis suis Angliae per patrem vel fratrem regis sine judicio parium suorum, rex eis sine dilatione justiciam exhibebit, eo modo quo exhibet Anglicis justiciam de tenementis suis Angliae secundum legem Angliae, et de tenementis Walliae secundum legem Walliae, et de tenementis Marchiae secundum legem Marchiae ; idem facient Walenses regi et suis.

45. Ut rex reddat filium Lewelini et praeterea omnes obsides de Wallia, et cartas quae ei liberatae fuerunt in securitatem pacis, ... nisi aliter esse debeat per cartas quas rex habet, per judicium archiepiscopi et aliorum quos secum vocare voluerit.

46. Ut rex faciat regi Scottorum de obsidibus reddendis, et de libertatibus suis, et jure suo, secundum formam quam facit baronibus Angliae,.

47. Et omnes forestae quae sunt aforestatae per regem tempore suo deafforestentur, et ita fiat de ripariis quae per ipsum regem sunt in defenso.

48. Omnes autem istas consuetudines et libertates quas rex concessit regno tenendas quantum ad se pertinet erga suos, omnes de regno tam clerici quam laici observabunt quantum ad se pertinet erga suos.

Haec est forma securitatis ad observandum pacem et libertates inter regem et regnum. Barones eligent xxv. barones de regno quos voluerint, qui debent pro totis viribus suis observare, tenere, et facere observari, pacem et libertates quas dominus rex eis concessit et carta sua confirmavit ; ita videlicet quod si rex, vel justiciarius, vel ballivi regis, vel aliquis de ministris suis, in aliquo erga aliquem deliquerit, vel aliquem articulorum pacis aut securitatis transgressus fuerit, et delictum ostensum fuerit iiii^{or} baronibus de praedictis xxv. baronibus, illi iiii^{or} barones accedent ad dominum regem, vel ad justiciarium suum, si rex fuerit extra regnum ; proponentes

ei excessum, petent ut excessum illum sine dilatione faciat emendari ; et si rex vel justiciarius ejus illud non emendaverit, si rex fuerit extra regnum, infra rationabile tempus determinandum in carta, praedicti iiii^{or} referent causam illam ad residuos de illis xxv. baronibus, et illi xxv. cum communa totius terrae distringent et gravabunt regem modis omnibus quibus poterunt, scilicet per captionem castrorum, terrarum, possessionum, et aliis modis quibus poterunt, donec fuerit emendatum secundum arbitrium eorum, salva persona domini regis et reginae et liberorum suorum ; et, cum fuerit emendatum, intendant domino regi sicut prius ; et quicumque voluerit de terra jurabit se ad praedicta exsequenda pariturum mandatis praedictorum xxv. baronum, et gravaturum regem pro posse suo cum ipsis ; et rex publice et libere dabit licentiam jurandi cuilibet qui jurare voluerit, et nulli umquam jurare prohibebit ; omnes autem illos de terra qui sponte sua et per se noluerint jurare xxv. baronibus de distringendo et gravando regem cum eis, rex faciet jurare eosdem de mandato suo sicut praedictum est. Item si aliquis de praedictis xxv. baronibus decesserit, vel a terra recesserit, vel aliquo modo alio impeditus fuerit, quo minus ista praedicta possint exsequi, qui residui fuerint de xxv. eligent alium loco ipsius pro arbitrio suo, qui simili modo erit juratus quo et ceteri. In omnibus autem quae istis xxv. baronibus committuntur exsequenda, si forte ipsi xxv. praesentes fuerint et inter se super re aliqua discordaverint, vel aliqui ex eis vocati nolint vel nequeant interesse, ratum habebitur et firmum quod major pars ex eis providerit vel praeceperit, ac si omnes xxv. in hoc consensissent ; et praedicti xxv. jurabunt quod omnia antedicta fideliter observabunt et pro toto posse suo facient observari. Praeterea rex faciet eos securos per cartas archiepiscopi et episcoporum et magistri Pandulfi, quod nihil impetrabit a domino papa per quod aliqua istarum conventionum revocetur vel minuatur, et, si aliquid tale impetraverit, reputetur irritum et inane et nunquam eo utatur.—(*Blackstone's Charters*, pp. 1–9 ; *Statutes of the Realm* ; *Charters of Liberties*, p. 6.)

A. D. 1215. Great Charter of Liberties.

The whole of the Constitutional History of England is a commentary on this charter ; the illustration of which must be

looked for in the documents that precede and follow. Good detailed notes on the text are supplied by W. S. McKechnie in his book *Magna Carta* (Glasgow, 1905).

Four originals of the Great Charter are extant: one in the archives of Salisbury Cathedral; a second in the archives of Lincoln Cathedral; the third and fourth in the British Museum, where they form part of the Cottonian collection. The text here followed is that of the more perfect of the two last-named (Cotton MS., Aug. ii. 36).

JOHANNES Dei gratia rex Angliae, dominus Hyberniae, dux Normanniae et Aquitanniae, comes Andegaviae, archiepiscopis, episcopis, abbatibus, comitibus, baronibus, justiciariis, forestariis, vicecomitibus, praepositis, ministris et omnibus ballivis et fidelibus suis salutem. Sciatis nos intuitu Dei et pro salute animae nostrae et omnium antecessorum et haeredum nostrorum, ad honorem Dei et exaltationem sanctae ecclesiae, et emendationem regni nostri, per consilium venerabilium patrum nostrorum, Stephani Cantuariensis archiepiscopi totius Angliae primatis et sanctae Romanae ecclesiae cardinalis, Henrici Dublinensis archiepiscopi, Willelmi Londoniensis, Petri Wintoniensis, Joscelini Bathoniensis et Glastoniensis, Hugonis Lincolniensis, Walteri Wygornensis, Willelmi Coventrensis, et Benedicti Roffensis episcoporum; magistri Pandulfi domini papae subdiaconi et familiaris, fratris Eymerici magistri militiae Templi in Anglia; et nobilium virorum Willelmi Mariscalli comitis Penbrociae, Willelmi comitis Saresberiae, Willelmi comitis Warenniae, Willelmi comitis Arundelliae, Alani de Galweya constabularii Scottiae, Warini filii Geroldi, Petri filii Hereberti, Huberti de Burgo senescalli Pictaviae, Hugonis de Nevilla, Mathei filii Hereberti, Thomae Basset, Alani Basset, Philippi de Albiniaco, Roberti de Roppel., Johannis Mariscalli, Johannis filii Hugonis et aliorum fidelium nostrorum:

In primis concessisse Deo et hac praesenti carta nostra confirmasse, pro nobis et haeredibus nostris in perpetuum, quod Anglicana ecclesia libera sit, et habeat jura sua integra, et libertates suas illaesas; et ita volumus observari; quod apparet ex eo quod libertatem electionum, quae maxima et magis necessaria reputatur ecclesiae Anglicanae, mera et spontanea voluntate, ante discordiam inter nos et barones

nostros motam, concessimus et carta nostra confirmavimus, et eam obtinuimus a domino papa Innocentio tertio confirmari; quam et nos observabimus et ab haeredibus nostris in perpetuum bona fide volumus observari. Concessimus etiam omnibus liberis hominibus regni nostri, pro nobis et haeredibus nostris in perpetuum, omnes libertates subscriptas, habendas et tenendas, eis et haeredibus suis, de nobis et haeredibus nostris;

2. Si quis comitum vel baronum nostrorum, sive aliorum tenentium de nobis in capite per servitium militare, mortuus fuerit, et cum decesserit haeres suus plenae aetatis fuerit et relevium debeat, habeat haereditatem suam per antiquum relevium; scilicet haeres vel haeredes comitis de baronia comitis integra per centum libras; haeres vel haeredes baronis de baronia integra per centum libras; haeres vel haeredes militis de feodo militis integro per centum solidos ad plus; et qui minus debuerit minus det secundum antiquam consuetudinem feodorum.

3. Si autem haeres alicujus talium fuerit infra aetatem et fuerit in custodia, cum ad aetatem pervenerit, habeat haereditatem suam sine relevio et sine fine.

4. Custos terrae hujusmodi haeredis qui infra aetatem fuerit, non capiat de terra haeredis nisi rationabiles exitus, et rationabiles consuetudines, et rationabilia servitia, et hoc sine destructione et vasto hominum vel rerum; et si nos commiserimus custodiam alicujus talis terrae vicecomiti vel alicui alii qui de exitibus illius nobis respondere debeat, et ille destructionem de custodia fecerit vel vastum, nos ab illo capiemus emendam, et terra committatur duobus legalibus et discretis hominibus de feodo illo, qui de exitibus respondeant nobis vel ei cui eos assignaverimus; et si dederimus vel vendiderimus alicui custodiam alicujus talis terrae, et ille destructionem inde fecerit vel vastum, amittat ipsam custodiam, et tradatur duobus legalibus et discretis hominibus de feodo illo qui similiter nobis respondeant sicut praedictum est.

5. Custos autem, quamdiu custodiam terrae habuerit, sustentet domos, parcos, vivaria, stagna, molendina, et cetera ad terram illam pertinentia, de exitibus terrae ejusdem; et reddat haeredi, cum ad plenam aetatem pervenerit, terram suam totam instauratam de carrucis et wainnagiis secundum quod tempus wainnagii exiget et exitus terrae rationabiliter poterunt sustinere.

6. Haeredes maritentur absque disparagatione, ita tamen quod, antequam contrahatur matrimonium, ostendatur propinquis de consanguinitate ipsius haeredis.

7. Vidua post mortem mariti sui statim et sine difficultate habeat maritagium et haereditatem suam, nec aliquid det pro dote sua, vel pro maritagio suo, vel haereditate sua quam haereditatem maritus suus et ipsa tenuerint die obitus ipsius mariti, et maneat in domo mariti sui per quadraginta dies post mortem ipsius, infra quos assignetur ei dos sua.

8. Nulla vidua distringatur ad se maritandum dum voluerit vivere sine marito, ita tamen quod securitatem faciat quod se non maritabit sine assensu nostro, si de nobis tenuerit, vel sine assensu domini sui de quo tenuerit, si de alio tenuerit.

9. Nec nos, nec ballivi nostri, seisiemus terram aliquam, nec redditum, pro debito aliquo, quamdiu catalla debitoris sufficiunt ad debitum reddendum; nec pleggii ipsius debitoris distringantur, quamdiu ipse capitalis debitor sufficit ad solutionem debiti; et si capitalis debitor defecerit in solutione debiti, non habens unde solvat, pleggii respondeant de debito; et, si voluerint, habeant terras et redditus debitoris donec sit eis satisfactum de debito quod ante pro eo solverint, nisi capitalis debitor monstraverit se esse quietum inde versus eosdem pleggios.

10. Si quis mutuo ceperit aliquid a Judaeis, plus vel minus, et moriatur antequam debitum illud solvatur, debitum non usuret quamdiu haeres fuerit infra aetatem, de quocumque teneat; et si debitum illud inciderit in manus nostras, nos non capiemus nisi catallum contentum in carta.

11. Et si quis moriatur, et debitum debeat Judaeis, uxor ejus habeat dotem suam, et nihil reddat de debito illo; et si liberi ipsius defuncti qui fuerint infra aetatem remanserint, provideantur eis necessaria secundum tenementum quod fuerit defuncti, et de residuo solvatur debitum, salvo servitio dominorum; simili modo fiat de debitis quae debentur aliis quam Judaeis.

12. Nullum scutagium vel auxilium ponatur in regno nostro, nisi per commune consilium regni nostri, nisi ad corpus nostrum redimendum, et primogenitum filium nostrum militem faciendum, et ad filiam nostram primogenitam semel maritandam, et ad haec non fiat nisi rationabile auxilium: simili modo fiat de auxiliis de civitate Londoniarum.

13. Et civitas Londoniarum habeat omnes antiquas liber-

tates et liberas consuetudines suas, tam per terras, quam per aquas. Praeterea volumus et concedimus quod omnes aliae civitates, et burgi, et villae, et portus, habeant omnes libertates et liberas consuetudines suas.

14. Et ad habendum commune consilium regni, de auxilio assidendo aliter quam in tribus casibus praedictis, vel de scutagio assidendo, summoneri faciemus archiepiscopos, episcopos, abbates, comites, et majores barones, sigillatim per litteras nostras; et praeterea faciemus summoneri in generali, per vicecomites et ballivos nostros, omnes illos qui de nobis tenent in capite; ad certum diem, scilicet ad terminum quadraginta dierum ad minus, et ad certum locum; et in omnibus litteris illius summonitionis causam summonitionis exprimemus; et sic facta summonitione negotium ad diem assignatum procedat secundum consilium illorum qui praesentes fuerint, quamvis non omnes summoniti venerint.

15. Nos non concedemus de cetero alicui quod capiat auxilium de liberis hominibus suis, nisi ad corpus suum redimendum, et ad faciendum primogenitum filium suum militem, et ad primogenitam filiam suam semel maritandam, et ad haec non fiat nisi rationabile auxilium.

16. Nullus distringatur ad faciendum majus servitium de feodo militis, nec de alio libero tenemento, quam inde debetur.

17. Communia placita non sequantur curiam nostram sed teneantur in aliquo loco certo.

18. Recognitiones de nova dissaisina, de morte antecessoris, et de ultima praesentatione, non capiantur nisi in suis comitatibus et hoc modo; nos, vel si extra regnum fuerimus, capitalis justiciarius noster, mittemus duos justiciarios per unumquemque comitatum per quatuor vices in anno, qui, cum quatuor militibus cujuslibet comitatus electis per comitatum, capiant in comitatu et in die et loco comitatus assisas praedictas.

19. Et si in die comitatus assisae praedictae, capi non possint, tot milites et libere tenentes remaneant de illis qui interfuerint comitatui die illo, per quos possint judicia sufficienter fieri, secundum quod negotium fuerit majus vel minus.

20. Liber homo non amercietur pro parvo delicto, nisi secundum modum delicti; et pro magno delicto amercietur secundum magnitudinem delicti, salvo contenemento suo; et mercator eodem modo salva mercandisa sua; et villanus

eodem modo amercietur salvo wainnagio suo, si inciderint in misericordiam nostram; et nulla praedictarum misericordiarum ponatur, nisi per sacramentum proborum hominum de visneto.

21. Comites et barones non amercientur nisi per pares suos, et non nisi secundum modum delicti.

22. Nullus clericus amercietur de laico tenemento suo, nisi secundum modum aliorum praedictorum, et non secundum quantitatem beneficii sui ecclesiastici.

23. Nec villa nec homo distringatur facere pontes ad riparias, nisi qui ab antiquo et de jure facere debent.

24. Nullus vicecomes, constabularius, coronatores, vel alii ballivi nostri, teneant placita coronae nostrae.

25. Omnes comitatus, hundredi, wapentakii, et trethingii, sint ad antiquas firmas absque ullo incremento, exceptis dominicis maneriis nostris.

26. Si aliquis tenens de nobis laicum feodum moriatur, et vicecomes vel ballivus noster ostendat litteras nostras patentes de summonitione nostra de debito quod defunctus nobis debuit, liceat vicecomiti vel ballivo nostro attachiare et inbreviare catalla defuncti inventa in laico feodo, ad valentiam illius debiti, per visum legalium hominum, ita tamen quod nihil inde amoveatur, donec persolvatur nobis debitum quod clarum fuerit; et residuum relinquatur executoribus ad faciendum testamentum defuncti; et, si nihil nobis debeatur ab ipso, omnia catalla cedant defuncto, salvis uxori ipsius et pueris rationabilibus partibus suis.

27. Si aliquis liber homo intestatus decesserit, catalla sua per manus propinquorum parentum et amicorum suorum, per visum ecclesiae, distribuantur, salvis unicuique debitis quae defunctus ei debebat.

28. Nullus constabularius, vel alius ballivus noster, capiat blada vel alia catalla alicujus, nisi statim inde reddat denarios, aut respectum inde habere possit de voluntate venditoris.

29. Nullus constabularius distringat aliquem militem ad dandum denarios pro custodia castri, si facere voluerit custodiam illam in propria persona sua, vel per alium probum hominem, si ipse eam facere non possit propter rationabilem causam; et si nos duxerimus vel miserimus eum in exercitum, erit quietus de custodia, secundum quantitatem temporis quo per nos fuerit in exercitu.

30. Nullus vicecomes, vel ballivus noster, vel aliquis alius,

capiat equos vel caretas alicujus liberi hominis pro cariagio faciendo, nisi de voluntate ipsius liberi hominis.

31. Nec nos nec ballivi nostri capiemus alienum boscum ad castra, vel alia agenda nostra, nisi per voluntatem ipsius cujus boscus ille fuerit.

32. Nos non tenebimus terras illorum qui convicti fuerint de felonia, nisi per unum annum et unum diem, et tunc reddantur terrae dominis feodorum.

33. Omnes kydelli de cetero deponantur penitus de Thamisia, et de Medewaye, et per totam Angliam, nisi per costeram maris.

34. Breve quod vocatur *Praecipe* de cetero non fiat alicui de aliquo tenemento unde liber homo amittere possit curiam suam.

35. Una mensura vini sit per totum regnum nostrum, et una mensura cervisiae, et una mensura bladi, scilicet quarterium Londoniense, et una latitudo pannorum tinctorum et russettorum et halbergettorum, scilicet duae ulnae infra listas; de ponderibus autem sit ut de mensuris.

36. Nihil detur vel capiatur de cetero pro brevi inquisitionis de vita vel membris, sed gratis concedatur et non negetur.

37. Si aliquis teneat de nobis per feodifirmam, vel per sokagium, vel per burgagium, et de alio terram teneat per servitium militare, nos non habebimus custodiam haeredis nec terrae suae quae est de feodo alterius, occasione illius feodifirmae, vel sokagii, vel burgagii; nec habebimus custodiam illius feodifirmae, vel sokagii, vel burgagii, nisi ipsa feodifirma debeat servitium militare. Nos non habebimus custodiam haeredis vel terrae alicujus, quam tenet de alio per servitium militare, occasione alicujus parvae sergenteriae quam tenet de nobis per servitium reddendi nobis cultellos, vel sagittas, vel hujusmodi.

38. Nullus ballivus ponat de cetero aliquem ad legem simplici loquela sua, sine testibus fidelibus ad hoc inductis.

39. Nullus liber homo capiatur, vel imprisonetur, aut dissaisiatur, aut utlagetur, aut exuletur, aut aliquo modo destruatur, nec super eum ibimus, nec super eum mittemus, nisi per legale judicium parium suorum vel per legem terrae.

40. Nulli vendemus, nulli negabimus, aut differemus, rectum aut justiciam.

41. Omnes mercatores habeant salvum et securum exire de

Anglia, et venire in Angliam, et morari et ire per Angliam, tam per terram quam per aquam, ad emendum et vendendum, sine omnibus malis toltis, per antiquas et rectas consuetudines, praeterquam in tempore gwerrae, et si sint de terra contra nos gwerrina ; et si tales inveniantur in terra nostra in principio gwerrae, attachientur sine dampno corporum et rerum, donec sciatur a nobis vel capitali justiciario nostro quomodo mercatores terrae nostrae tractentur, qui tunc invenientur in terra contra nos gwerrina ; et si nostri salvi sint ibi, alii salvi sint in terra nostra.

42. Liceat unicuique de cetero exire de regno nostro, et redire, salvo et secure, per terram et per aquam, salva fide nostra, nisi tempore gwerrae per aliquod breve tempus, propter communem utilitatem regni, exceptis imprisonatis et utlagatis secundum legem regni, et gente de terra contra nos gwerrina, et mercatoribus de quibus fiat sicut praedictum est.

43. Si quis tenuerit de aliqua escaeta, sicut de honore Walingeford, Notingeham, Bononiae, Lainkastriae, vel de aliis eskaetis, quae sunt in manu nostra, et sunt baroniae, et obierit, haeres ejus non det aliud relevium, nec faciat nobis aliud servitium quam faceret baroni si baronia illa esset in manu baronis ; et nos eodem modo eam tenebimus quo baro eam tenuit.

44. Homines qui manent extra forestam non veniant de cetero coram justiciariis nostris de foresta per communes summonitiones, nisi sint in placito, vel pleggii alicujus vel aliquorum, qui attachiati sint pro foresta.

45. Nos non faciemus justiciarios, constabularios, vicecomites, vel ballivos, nisi de talibus qui sciant legem regni et eam bene velint observare.

46. Omnes barones qui fundaverunt abbatias, unde habent cartas regum Angliae, vel antiquam tenuram, habeant earum custodiam cum vacaverint, sicut habere debent.

47. Omnes forestae quae afforestatae sunt tempore nostro, statim deafforestentur ; et ita fiat de ripariis quae per nos tempore nostro positae sunt in defenso.

48. Omnes malae consuetudines de forestis et warennis, et de forestariis et warennariis, vicecomitibus et eorum ministris, ripariis et earum custodibus, statim inquirantur in quolibet comitatu per duodecim milites juratos de eodem comitatu, qui debent eligi per probos homines ejusdem comitatus, et infra quadraginta dies post inquisitionem factam, penitus, ita quod

numquam revocentur, deleantur per eosdem, ita quod nos hoc sciamus prius, vel justiciarius noster, si in Anglia non fuerimus.

49. Omnes obsides et cartas statim reddemus quae liberatae fuerunt nobis ab Anglicis in securitatem pacis vel fidelis servitii.

50. Nos amovebimus penitus de balliis parentes Gerardi de Athyes, quod de cetero nullam habeant balliam in Anglia; Engelardum de Cygony, Petrum et Gyonem et Andream de Cancellis, Gyonem de Cygony, Galfridum de Martinni et fratres ejus, Philippum Marc. et fratres ejus, et Galfridum nepotem ejus, et totam sequelam eorumdem.

51. Et statim post pacis reformationem amovebimus de regno omnes alienigenas milites, balistarios, servientes, stipendiarios, qui venerint cum equis et armis ad nocumentum regni.

52. Si quis fuerit disseisitus vel elongatus per nos sine legali judicio parium suorum, de terris, castellis, libertatibus, vel jure suo, statim ea ei restituemus; et si contentio super hoc orta fuerit, tunc inde fiat per judicium viginti quinque baronum, de quibus fit mentio inferius in SECURITATE PACIS: de omnibus autem illis de quibus aliquis disseisitus fuerit vel elongatus sine legali judicio parium suorum, per Henricum regem patrem nostrum vel per Ricardum regem fratrem nostrum, quae in manu nostra habemus, vel quae alii tenent, quae nos oporteat warantizare, respectum habebimus usque ad communem terminum crucesignatorum; exceptis illis de quibus placitum motum fuit vel inquisitio facta per praeceptum nostrum, ante susceptionem crucis nostrae: cum autem redierimus de peregrinatione nostra, vel si forte remanserimus a peregrinatione nostra, statim inde plenam justiciam exhibebimus.

53. Eundem autem respectum habebimus, et eodem modo, de justicia exhibenda de forestis deafforestandis vel remansuris forestis, quas Henricus pater noster vel Ricardus frater noster afforestaverunt, et de custodiis terrarum quae sunt de alieno feodo, cujusmodi custodias hucusque habuimus occasione feodi quod aliquis de nobis tenuit per servitium militare, et de abbatiis quae fundatae fuerint in feodo alterius quam nostro, in quibus dominus feodi dixerit se jus habere; et cum redierimus, vel si remanserimus a peregrinatione nostra, super hiis conquerentibus plenam justiciam statim exhibebimus.

54. Nullus capiatur nec imprisonetur propter appellum foeminae de morte alterius quam viri sui.

55. Omnes fines qui injuste et contra legem terrae facti sunt nobiscum, et omnia amerciamenta facta injuste et contra legem terrae, omnino condonentur, vel fiat inde per judicium viginti quinque baronum de quibus fit mentio inferius in SECURITATE PACIS, vel per judicium majoris partis eorumdem, una cum praedicto Stephano Cantuariensi archiepiscopo, si interesse poterit, et aliis quos secum ad hoc vocare voluerit: et si interesse non poterit, nihilominus procedat negotium sine eo, ita quod, si aliquis vel aliqui de praedictis viginti quinque baronibus fuerint in simili querela, amoveantur quantum ad hoc judicium, et alii loco illorum per residuos de eisdem viginti quinque, tantum ad hoc faciendum electi et jurati substituantur.

56. Si nos dissaisivimus vel elongavimus Walenses de terris vel libertatibus vel rebus aliis, sine legali judicio parium suorum, in Anglia vel in Wallia, eis statim reddantur; et si contentio super hoc orta fuerit, tunc inde fiat in Marchia per judicium parium suorum, de tenementis Angliae secundum legem Angliae, de tenementis Walliae secundum legem Walliae, de tenementis Marchiae secundum legem Marchiae. Idem facient Walenses nobis et nostris.

57. De omnibus autem illis de quibus aliquis Walensium dissaisitus fuerit vel elongatus sine legali judicio parium suorum, per Henricum regem patrem nostrum vel Ricardum regem fratrem nostrum, quae nos in manu nostra habemus, vel quae alii tenent quae nos oporteat warantizare, respectum habebimus usque ad communem terminum crucesignatorum, illis exceptis de quibus placitum motum fuit vel inquisitio facta per praeceptum nostrum ante susceptionem crucis nostrae: cum autem redierimus, vel si forte remanserimus a peregrinatione nostra, statim eis inde plenam justiciam exhibebimus, secundum leges Walensium et partes praedictas.

58. Nos reddemus filium Lewelini statim, et omnes obsides de Wallia, et cartas quae nobis liberatae fuerunt in securitatem pacis.

59. Nos faciemus Alexandro regi Scottorum de sororibus suis, et obsidibus reddendis, et libertatibus suis, et jure suo, secundum formam in qua faciemus aliis baronibus nostris Angliae, nisi aliter esse debeat per cartas quas habemus de Willelmo patre ipsius, quondam rege Scottorum; et hoc erit per judicium parium suorum in curia nostra.

60. Omnes autem istas consuetudines praedictas et liber-

tates quas nos concessimus in regno nostro tenendas quantum ad nos pertinet erga nostros, omnes de regno nostro, tam clerici quam laici, observent quantum ad se pertinet erga suos.

Cum autem pro Deo, et ad emendationem regni nostri, et ad melius sopiendum discordiam inter nos et barones nostros ortam, haec omnia praedicta concesserimus, volentes ea integra et firma stabilitate gaudere in perpetuum, facimus et concedimus eis securitatem subscriptam; videlicet quod barones eligant viginti quinque barones de regno quos voluerint, qui debeant pro totis viribus suis observare, tenere, et facere observari, pacem et libertates quas eis concessimus, et hac praesenti carta nostra confirmavimus, ita scilicet quod, si nos, vel justiciarius noster, vel ballivi nostri, vel aliquis de ministris nostris, in aliquo erga aliquem deliquerimus, vel aliquem articulorum pacis aut securitatis transgressi fuerimus, et delictum ostensum fuerit quatuor baronibus de praedictis viginti quinque baronibus, illi quatuor barones accedant ad nos vel ad justiciarium nostrum, si fuerimus extra regnum, proponentes nobis excessum: petent ut excessum illum sine dilatione faciamus emendari. Et si nos excessum non emendaverimus, vel, si fuerimus extra regnum, justiciarius noster non emendaverit infra tempus quadraginta dierum computandum a tempore quo monstratum fuerit nobis vel justiciario nostro si extra regnum fuerimus, praedicti quatuor barones referant causam illam ad residuos de viginti quinque baronibus, et illi viginti quinque barones cum communia totius terrae distringent et gravabunt nos modis omnibus quibus poterunt, scilicet per captionem castrorum, terrarum, possessionum, et aliis modis quibus poterunt, donec fuerit emendatum secundum arbitrium eorum, salva persona nostra et reginae nostrae et liberorum nostrorum; et cum fuerit emendatum intendent nobis sicut prius fecerunt. Et quicumque voluerit de terra juret quod ad praedicta omnia exsequenda parebit mandatis praedictorum viginti quinque baronum, et quod gravabit nos pro posse suo cum ipsis, et nos publice et libere damus licentiam jurandi cuilibet qui jurare voluerit, et nulli umquam jurare prohibebimus. Omnes autem illos de terra qui per se et sponte sua noluerint jurare viginti quinque baronibus, de distringendo et gravando nos cum eis, faciemus jurare eosdem de mandato nostro, sicut praedictum est. Et si aliquis de viginti quinque baronibus decesserit, vel a terra recesserit, vel aliquo alio modo impeditus fuerit, quo

minus ista praedicta possent exsequi, qui residui fuerint de praedictis viginti quinque baronibus eligant alium loco ipsius, pro arbitrio suo, qui simili modo erit juratus quo et ceteri. In omnibus autem quae istis viginti quinque baronibus committuntur exsequenda, si forte ipsi viginti quinque praesentes fuerint, et inter se super re aliqua discordaverint, vel aliqui ex eis summoniti nolint vel nequeant interesse, ratum habeatur et firmum quod major pars eorum qui praesentes fuerint providerit, vel praeceperit, ac si omnes viginti quinque in hoc consensissent ; et praedicti viginti quinque jurent quod omnia antedicta fideliter observabunt, et pro toto posse suo facient observari. Et nos nihil impetrabimus ab aliquo, per nos nec per alium, per quod aliqua istarum concessionum et libertatum revocetur vel minuatur ; et, si aliquid tale impetratum fuerit, irritum sit et inane et numquam eo utemur per nos nec per alium.

Et omnes malas voluntates, indignationes, et rancores, ortos inter nos et homines nostros, clericos et laicos, a tempore discordiae, plene omnibus remisimus et condonavimus. Praeterea omnes transgressiones factas occasione ejusdem discordiae, a Pascha anno regni nostri sextodecimo usque ad pacem reformatam, plene remisimus omnibus, clericis et laicis, et quantum ad nos pertinet plene condonavimus. Et insuper fecimus eis fieri litteras testimoniales patentes domini Stephani Cantuariensis archiepiscopi, domini Henrici Dublinensis archiepiscopi, et episcoporum praedictorum, et magistri Pandulfi, super securitate ista et concessionibus praefatis.

QUARE VOLUMUS et firmiter praecipimus quod Anglicana ecclesia libera sit et quod homines in regno nostro habeant et teneant omnes praefatas libertates, jura, et concessiones, bene et in pace, libere et quiete, plene et integre, sibi et haeredibus suis, de nobis et haeredibus nostris, in omnibus rebus et locis, in perpetuum, sicut praedictum est. Juratum est autem tam ex parte nostra quam ex parte baronum, quod haec omnia supradicta bona fide et sine malo ingenio observabuntur. Testibus supradictis et multis aliis. Data per manum nostram in prato quod vocatur Ronimed, inter Windelesoram et Stanes, quinto decimo die Junii, anno regni nostri septimo decimo.

MATT. PARIS, ii. 604. Hi autem sunt xxv. barones electi,

Comes de Clare.
Comes Albemarle.
Comes Gloverniae.
Comes Wintoniae.

Comes Herefordiae.
Comes Rogerus (Bigot).
Comes Robertus (de Vere).
Comes Marescallus, Junior.
Robertus filius Walteri.
Gilbertus de Clare.
Eustachius de Vesci.
Hugo Bigod.
Willelmus de Munbrai.
Major de Lundoniis.
Willelmus de Lanval.
Robertus de Ros.
Constabularius Cestriae.
Ricardus de Perci.
Johannes filius Roberti.
Willelmus Malet.
Galfridus de Say.
Rogerus de Munbray.
Willelmus de Huntingefelde.
Ricardus de Muntfichet.
Willelmus de Albineto.

A. D. 1215. Order for Inquiry into Evil Customs.

This letter, which was issued immediately after the publication of the Great Charter, is important as showing the method of election in the county court, which must be understood as ruling the cases in which such representation of the county for diverse purposes is directed without the mention of election.

Rex vicecomiti, warennariis, custodibus ripariarum et omnibus baillivis suis in comitatu—salutem. Sciatis pacem firmam esse reformatam per Dei gratiam inter nos et barones et liberos homines regni nostri, sicut audire poteritis et videre per cartam nostram quam inde fieri fecimus, quam etiam legi publice praecepimus per totam bailliam vestram et firmiter teneri; volentes et districte praecipientes quod tu, vicecomes, omnes de baillia tua secundum formam cartae praedictae jurare facias xxv. baronibus de quibus mentio fit in carta praedicta, ad mandatum eorundem vel majoris partis eorum, coram ipsis vel illis quos ad hoc atornaverint per litteras suas patentes, et ad diem et locum quos ad hoc faciendum praefixerint praedicti barones vel atornati ab eis ad hoc. Volumus etiam et praecipimus quod xii. milites de comitatu tuo, qui eligentur de ipso comitatu in primo comitatu qui tenebitur post susceptionem litterarum istarum in partibus tuis, jurent de inquirendis pravis consuetudinibus tam de vicecomitibus quam eorum ministris, forestis, forestariis, warennis et warennariis, ripariis et earum custodibus, et eis delendis, sicut in ipsa carta continetur. Vos igitur omnes sicut nos et honorem nostrum diligitis, et pacem regni nostri, omnia in carta contenta inviolabiliter observetis et ab omnibus observari faciatis, ne per defectum vestri, aut per excessum vestrum, pacem regni nostri, quod Deus avertat, iterum turbari

contingat. Et tu, vicecomes, pacem nostram per totam bailliam tuam clamari facias et firmiter teneri praecipias. Et in hujus, etc. vobis mittimus. T. me ipso apud Runimede, XIX. die Junii, anno regni nostri xvii^mo.—(*Patent Rolls*, i. 180.)

Charters of Cities and Boroughs granted by John.

The Charter Rolls of John afford specimens of every sort of charter granted to boroughs in every stage of growth. The following are a selection illustrating the various points to which reference has been made in the earlier portions of this book :

1. The grant of the Firma burgi ; Cambridge, no. 8.
2. The grant of freedom ; Helleston, no. 7.
3. The grant of free customs on the model of a more ancient borough ; Hartlepool, no. 6.
4. The confirmation of free customs to a typical town ; York, no. 5.
5. The confirmation of former charters, with the grant of election of reeve to the borough at large ; Lincoln, no. 4 ; cf. Cambridge, no. 8.
6. Similar grant with special reference to the gild-merchant ; Nottingham, no. 1.
7. Similar grant ; with reference of the choice of reeve to the sheriff of the county ; Northampton, no. 2.
8. Grant of special privileges exempting from shiremoot and hundredmoot ; Dunwich, no. 3.
9. Grant to the Londoners of the privilege of choosing their Mayor ; no. 9.

The last of these must be regarded as conferring the crowning privilege on the community and constituting it a perfect municipality. The mayoralty of London dates from the earliest years of Richard I, probably from the foundation of that *communa* which was confirmed on the occasion of William Longchamp's downfall.[1] The name of the officer, as well as that of

[1] He is mentioned in a document of 1193, the oath of fealty taken by the commune during Richard's imprisonment (Round, *Commune of London*, p. 235 ; *supra* p. 245).

the communa itself, is French.[1] That the incorporation under this form was held to imply very considerable municipal independence may be inferred from the fact that one of the charges brought by William Fitz-Osbert against Richard Fitz-Osbert, was that he had not forbidden the saying ' quodcunque eat vel veniat, quod nunquam habeant Londonienses alium regem quam majorem Londoniarum '. The terms ' major ' and ' communitas ' go together ; on the other hand, the ' aldermannus ' belongs to the guild, not to the municipality as such : the ' praepositus,' again, belongs to the more ancient system of the leet. How long the portreeve of London continued to exist is not known ; he may have subsisted until he was merged in the ' major ', or he may have been extinguished when the ancient English Cnihtengild surrendered to the priory of the Holy Trinity its lands and jurisdictions, which were subsequently formed into the ward of Port-Soken.[2] This surrender was made early in the reign of Henry I.

(1) A. D. 1200. *Charter of Nottingham.*

Johannes, Dei gratia, etc. Sciatis nos concessisse et praesenti carta nostra confirmasse burgensibus nostris de Notingam omnes illas liberas consuetudines quas habuerunt tempore Henrici regis proavi nostri, et tempore Henrici regis patris nostri, sicut carta Henrici ejusdem patris nostri testatur ; (*as in the charter of Henry II, down to the words* fili aquae). Praeterea concessimus etiam de proprio dono nostro et hac carta nostra confirmavimus eisdem burgensibus liberis nostris, gildam mercatorum cum omnibus libertatibus et liberis consuetudinibus quae ad gildam mercatorum debent vel solent pertinere ; et quod ipsi sint quieti de tholonea per totam terram nostram infra nundinas et extra. Et licet illis quem

[1] Mr. Round in the work cited above argues, partly from new documents, that the commune of London copied the constitution of Rouen. His inferences are, however, disputed by Miss Bateson (*E. H. R.*, XVII. p. 480 ff.), who produced still further evidence to prove that the parallel with Rouen is at best superficial.

[2] There is no foundation for the theory that the English Cnihtengild had any control over the government of London (Round, *Commune of London*, pp. 102–3) ; or for connecting the title of the alderman with this guild.

voluerint ex suis in fine anni praepositum suum facere, qui de firma nostra pro ipsis respondeat, ita quod si idem praepositus nobis displiceat, illum ad voluntatem nostram removebimus, et ipsi alium ad libitum nostrum substituent. Concessimus etiam eisdem burgensibus ut quicunque ab eis constitutus fuerit praepositus ejusdem burgi solvat firmam ejusdem burgi ad dominicum scaccarium nostrum, ubicunque fuerit in Anglia, ad duos terminos, medietatem scilicet ad clausum Paschae et medietatem in octavis Sancti Michaelis. Quare volumus et firmiter praecipimus quod praedicti burgenses habeant et teneant praedictas consuetudines, bene et in pace, libere et quiete, honorifice et pacifice, plenarie et integre, sicut habuerunt tempore Henrici regis proavi nostri et tempore Henrici regis patris nostri, cum praedictis augmentis quae eis concessimus. Et prohibemus ne quis contra hanc cartam nostram praedictos burgenses vexare praesumat in aliquo super decem libras forisfacti nostri, sicut eis concessimus et rationabili carta nostra confirmavimus dum essemus comes Moretoniae. Hiis testibus, Gaufrido filio Petri comite Essexiae, Willelmo Briwerre, Hugone Bardulfi, Roberto filio Rogeri, Willelmo de Stutevilla, Hugone de Nevilla, Symone de Pateshulle, Gilberto de Norfolk. Datum per manus S. Wellensis archidiaconi et Johannis Gray archidiaconi Clivelandiae apud Clipeston, XIX. die Marcii, regni nostri anno primo.—(W. H. Stevenson, *Nottingham Charters*, p. 8.)

(2) A.D. 1200. *Carta Norhamtoniae.*

JOHANNES, Dei gratia, etc. Sciatis nos concessisse burgensibus nostris de Norhamtonia, quod nullus eorum placitet extra muros burgi Norhamtoniae de aliquo placito praeter placita de tenuris exterioribus, exceptis monetariis et ministris nostris. Concessimus etiam eis quietantiam murdri infra burgum et portsoka, et quod nullus eorum faciat duellum, et quod de placitis ad coronam pertinentibus se possint disrationare secundum consuetudinem civium civitatis Londoniarum, et quod infra muros burgi illius nemo capiat hospitium per vim vel per liberationem marescalli. Hoc autem eis concessimus quod omnes burgenses Norhamtoniae sint quieti de theloneo et lestagio per totam Angliam et portus maris, et quod nullus de misericordia pecuniae judicetur nisi secundum legem quam habuerunt cives nostri Londoniarum tempore Henrici regis patris nostri: et quod in burgo illo in nullo placito sit mesken-

ninga, et quod hustingus semel tantum in hebdomada teneatur ; et quod terras et tenuras et vadia sua, et debita sua omnia juste habeant, quicunque eis debeat ; et de terris suis et tenuris quae infra burgum sunt rectum eis teneatur secundum consuetudinem burgi ; et de omnibus debitis suis quae accommodata fuerint apud Norhamtoniam et de vadiis ibidem factis placita apud Norhamtoniam teneantur. Et si quis in tota Anglia theloneum vel consuetudinem ab hominibus Norhamtoniae ceperit, postquam ipse a recto defecerit, praepositus Norhamtoniae namium inde apud Norhamtoniam capiat. Insuper etiam ad emendationem illius burgi eis concessimus quod sint quieti de brudtoll et gildwite et de yeresyeve, et de scotale, ita quod praepositus Norhamtoniae vel aliquis alius ballivus scotale non faciat. Has praedictas consuetudines eis concessimus et omnes alias libertates et liberas consuetudines quas habuerunt cives nostri Londoniarum quando meliores vel liberiores habuerunt, tempore praedicti Henrici regis patris nostri secundum libertates Londoniarum et leges burgi Norhamtoniae. Quare volumus et firmiter praecipimus quod ipsi et haeredes eorum haec omnia praedicta haereditarie habeant et teneant de nobis et haeredibus nostris, reddendo per annum centum et xx. libras numero de villa Norhamtoniae cum omnibus pertinentiis suis ad scaccarium nostrum in termino Sancti Michaelis, per manus praepositi Norhamtoniae. Et burgenses Norhamtoniae faciant praepositum quem voluerint de se per annum, qui sit idoneus nobis et eis, hoc modo, scilicet quod idem burgenses nostri de Norhamtonia per commune consilium villatae suae eligant duos de legalioribus et discretioribus villae suae et praesentent eos vicecomiti Norhamtoniae, et vicecomes unum illorum praesentet capitali justitiae apud Westmonasterium, cum compotum suum reddere debet, qui bene et fideliter custodiant praeposituram villae Norhamtoniae, et non amoveantur quamdiu se in ballia illa bene gesserint, nisi per commune consilium villatae suae. Volumus etiam quod in eodem burgo Norhamtoniae per commune consilium villatae eligantur quatuor de legalioribus et discretioribus de burgo ad custodiendum placita coronae et alia quae ad nos et coronam nostram pertinent in eodem burgo, et ad videndum quod praepositi illius burgi juste et legitime tractent tam pauperes quam divites. T. Willelmo Londoniensi episcopo, etc. Datum per manus S. Wellensis archidiaconi, etc., apud Windeshores, etc., anno, etc.—(*Charter Rolls*, p. 45.)

(3) A. D. 1200. *Carta de Dunewic.*

JOHANNES, Dei gratia, etc. Sciatis nos concessisse et praesenti carta confirmasse burgensibus nostris de Dunewichge, quod burgum de Dunewichge sit liberum burgum nostrum, et habeat soccam et saccam et toll et theam et infangenthef, et quod ipsi per totam terram nostram quieti sint de theloneo et lestagio et passagio et pontagio et stallagio et de leue et de Danegelde, et de ewagio de wrec et lagan et de omnibus aliis consuetudinibus, salva libertate civitatis Londoniarum et quod ipsi rectam et solitam firmam suam per manum suam reddant ad scaccarium nostrum; et quod nullam sectam faciant comitatus vel hundredorum nisi coram justitiis nostris; et cum summoniti fuerint esse coram justitiis, mittant pro se xii. legales homines de burgo suo qui sint pro eis omnibus; et si forte amerciari debuerint, per sex probos homines de burgo suo et per vi. probos homines extra burgum amercientur. Concessimus etiam eis quod filios et filias suas possint libere ubi voluerint in terra nostra maritare, et viduas similiter per consilium amicorum suorum, et perquisitiones suas de terris et aedificiis in villa sua possint dare aut vendere aut facere inde quod voluerint et quando voluerint. Concessimus etiam eis hansam et gildam mercatoriam sicut habere consueverunt. Quare volumus et firmiter praecipimus quod praedicti burgenses nostri praenominatas libertates et liberas consuetudines habeant et teneant libere, pacifice et integre, sine omni impedimento. T. E. Elyensi episcopo, Willelmo Marescallo, etc. Datum per manus H. Cantuariensis archiepiscopi cancellarii nostri apud Rupem Aurivallis; XXIX. die Junii, anno regni nostri primo.—(*Charter Rolls*, p. 51. Full text (from the original) in *Hist. MSS. Comm. Rep.* xiv, *App.* viii, p. 2.)

(4) A. D. 1200. *Carta civium Lincolniae.*

JOHANNES, Dei gratia, etc. Sciatis nos concessisse, etc. (*as in the charter of Richard, above*, p. 261, mutatis mutandis, *as far as the last clause*). Praeterea volumus et concedimus quod idem cives nostri Lincolniae per commune consilium civitatis eligant duos de legalioribus et discretioribus civibus Lincolniae, et praesentent eos capitali justitiae apud Westmonasterium, qui bene et fideliter custodiant praeposituram civitatis Lincolniae, et non amoveantur quamdiu se in ballia sua bene gesserint, nisi per commune consilium civitatis suae. Volumus

etiam quod in eadem civitate Lincolniae per commune consilium civium eligantur quatuor de legalioribus et discretioribus civitatis ad custodiendum placita coronae et alia quae ad nos et coronam nostram pertinent in eadem civitate et ad videndum quod praepositi illius civitatis juste et legitime tractent tam pauperes quam divites. Hiis testibus W. Lond. episcopo, G. filio Petri comite Essexiae, Willelmo Marescallo comite de Penbroc, Hugone Bardulfi, Willelmo Briwerre. Datum per manus S. Wellensis archidiaconi et Johannis de Gray archidiaconi Glocestriae apud Aolton, XXIII. die Aprilis anno regni nostri primo.—(*Charter Rolls*, p. 56.)

(5) A. D. 1200. *Confirmatio civium Eboraci.*

Johannes, Dei gratia, etc. Sciatis nos concessisse civibus nostris de Eboraco omnes libertates et leges et consuetudines suas, et nominatim gildam suam mercatoriam, et hansas suas in Anglia et Normannia, et lestagia sua per totam costam maris, quieta, sicut ea unquam melius et liberius habuerunt tempore regis Henrici avi patris nostri. Et volumus et firmiter praecipimus quod praedictas libertates et consuetudines habeant et teneant cum omnibus libertatibus praedictae gildae suae et hansis suis pertinentibus, ita bene et in pace, libere et quiete, sicut unquam melius, liberius et quietius habuerunt et tenuerunt tempore praedicti regis Henrici avi patris nostri, sicut carta ejusdem patris nostri et carta Ricardi fratris nostri rationabiliter testantur. Praeterea sciatis nos concessisse et praesenti carta confirmasse omnibus civibus nostris Eboraci quietantiam cujuslibet thelonei, et lastagii, et de wrec, et pontagii, et passagii, et de trespas, et de omnibus costumis per totam Angliam et Normanniam et Aquitanniam et Andegaviam et Pictaviam et per omnes portus et costas maris Angliae et Normanniae et Aquitanniae et Andegaviae et Pictaviae. Quare volumus et firmiter praecipimus quod inde sint quieti, et prohibemus ne quis super haec disturbet super decem libras forisfacturae, sicut carta Ricardi regis fratris nostri rationabiliter testatur. T. G. Eboracensi archiepiscopo ; Ph. Dunolm. episcopo ; Gaufrido filio Petri comite Essexiae, etc. Datum per manum S. Wellensis archidiaconi et Johannis de Gray apud Eboracum, XXV. die Marcii, anno regni nostri primo.—(*Charter Rolls*, p. 40. Drake, *Ebor.* 203.)

(6) A. D. 1201. *Carta hominum de Herterpol.*

JOHANNES, Dei gratia, etc. Sciatis nos concessisse et hac praesenti carta nostra confirmasse hominibus de Herterpol, quod sint liberi burgenses, et quod habeant easdem libertates et leges in villa sua de Herterpol quas burgenses Novi Castelli super Tinam habent in villa sua de Novo Castello. Quare volumus et firmiter praecipimus quod praedicti burgenses habeant et teneant praedictas libertates et leges bene et in pace, libere et quiete et integre, sicut praedictum est. Hiis testibus, Willelmo de Stutevilla, Hugone Bardulfi, Petro de Pratellis, Willelmo Briwerre, Hugone de Nevilla, Roberto de Ros, Eustacio de Vesci, Petro de Brus, etc. Datum per manum S. Wellensis archidiaconi apud Dunolm., VIII. die Februarii, regni nostri anno secundo.—(*Charter Rolls*, p. 86.)

(7) A. D. 1201. *Carta burgensium de Helleston.*

JOHANNES, Dei gratia, etc. Sciatis nos concessisse et praesenti carta nostra confirmasse quod burgus noster de Helleston sit liber burgus, et quod burgenses nostri de eadem villa habeant gildam mercatoriam et quietantiam per totam terram nostram de tholoneo, pontagio, passagio, stallagio, lestagio et sollagio, salvis in omnibus libertatibus civitatis Londoniarum. Concedimus etiam eis quod non placitent nisi infra burgum suum de rebus vel tenuris pertinentibus ad villam suam, praeterquam de placitis ad coronam nostram pertinentibus, et placitis de terris forinsecis. Volumus etiam quod habeant omnes alias libertates et liberas consuetudines quas habuerunt burgenses nostri de castello de Lancaveton tempore regis Henrici patris nostri, ita quod nullus burgensium praedictorum, nisi residens fuerit in praedicta villa de Helleston, has habebit libertates. Hiis testibus, W. com. Sarr.; W. Briwerre; Rob. de Turnham; Rob. de Tresgoz; Sim. de Pateshulle; Rad. de Stokes; Eustac. de Facumberge. Datum per manum S. Wellensis archidiaconi apud Craneburne, XV. die Aprilis, anno regni nostri secundo.—(*Charter Rolls*, p. 93.)

(8) A. D. 1207. *Charter to Cambridge.*

JOHANNES, Dei gratia rex Angliae, etc. Sciatis nos concessisse et hac carta nostra confirmasse burgensibus nostris de Cantebrige villam de Cantebrige cum omnibus pertinentiis suis habendam et tenendam in perpetuum de nobis et heredibus

nostris sibi et heredibus suis, reddendo inde annuatim ad scaccarium nostrum antiquam firmam, sc. quadraginta libras albas et viginti libras numero de cremento pro omni servicio per manus eorum ad duo scaccaria anni. Quare volumus et firmiter praecipimus quod predicti burgenses et heredes sui habeant et teneant predictam villam cum omnibus pertinentiis bene et in pace, etc. cum omnibus libertatibus et liberis consuetudinibus suis. Concessimus etiam eis quod faciant de se ipsis prepositum quem voluerint et quando voluerint. Testibus Dominis Willelmo Londoniensi, Petro Wintoniensi, Johanne Norwicensi, Joscelino Bathoniensi Episcopis, Galfrido filio Petri Comite Essexiae, Comite Alberico, Willelmo Briwerre, Galfrido de Nevilla, Reginaldo de Cornhille. Data per manum Hugonis de Welles, archidiaconi Wellensis, apud Lamheam viii° die Maii anno regni nostro octavo.—(Maitland and Bateson, *Cambridge Borough Charters*, p. 6.)

(9) A. D. 1215. *Charter to London.*

Johannes. Dei gratia rex Angliae, etc. Sciatis nos concessisse et praesenti carta nostra confirmasse baronibus nostris de civitate nostra Londoniarum, quod eligant sibi majorem de seipsis singulis annis, qui nobis fidelis sit, discretus et idoneus ad regimen civitatis, ita quod cum electus fuerit, nobis vel justitiario nostro, si praesentes non fuerimus, praesentetur et nobis juret fidelitatem ; et quod liceat eis ipsum in fine anni amovere et alium substituere si voluerint, vel eundem retinere, ita tamen quod nobis ostendatur vel justitiario nostro, si praesentes non fuerimus. Concessimus etiam eisdem baronibus nostris et carta nostra confirmavimus, quod habeant bene et in pace, libere, quiete et integre, omnes libertates suas quibus hactenus usi sunt, tam in civitate Londoniarum quam extra ; et tam in aquis quam in terris, et omnibus aliis locis, salva nobis chamberlengeria nostra. Quare volumus et firmiter praecipimus quod praedicti barones nostri civitatis nostrae Londoniarum eligant sibi majorem singulis annis de seipsis praedicto modo, et quod habeant omnes praedictas libertates bene et in pace, integre et plenarie, cum omnibus ad hujusmodi libertates pertinentibus, sicut praedictum est. Testibus dominis P. Winton., W. Wygorn., W. Coventr. episcopis, Willelmo Briwerre, Petro filio Herberti, Galfrido de Lucy, et Johanne filio Hugonis. Datum per manus magistri Ricardi de Mariscis cancellarii nostri, apud Novum Templum Londoniis,

IX. die Maii, anno regni nostri sexto decimo.—(*Charter Rolls*, p. 207.)

Customs of London in the Reign of John.

I. A. D. 1205–6. *Oath of the Twenty-four.*

Quod legaliter intendent ad consulendum secundum suam consuetudinem juri domini regis quod ad illos spectat in civitate Londoniae salva libertate civitatis ; et quod de nullo homine qui in placito sit ad civitatem spectante aliquod praemium ad suam conscientiam reciperent. Et si aliquis illorum donum aut promissum dum in placitum faciat, illud nunquam recipient, neque aliquis per ipsos vel pro ipsis. Et quod illi nullum modum praemii accipient, nec aliquis per ipsos vel pro ipsis, pro injuria allevanda vel pro jure sternendo. Et concessum est inter ipsos quod si aliquis inde attinctus vel convictus fuerit, libertatem civitatis et eorum societatem amittet.—(Round, *Commune of London*, p. 237.)

II. *System of Watch and Ward.*

Magna custodia debet invenire xii homines, sed per libitum vicecomitis abbreviata est usque ad viii homines. Mediocris custodia debet viii vigiles, sed ita abbreviata usque sex. Minor custodia debet sex, sed ita abbreviata usque ad iiij^{or}. Debent autem escavingores eligi qui singulis diebus a vigilia Natalis Domini usque ad diem Epyphaniae videant illos qui debent de nocte vigilare, quod sint homines defensibiles et decenter ad hoc armati. Debent autem ad vesperam in die videri, et ad horam completorii exire et per totam noctem pacifice vigilare et vicum salve custodire usque pulsetur ad matutinas per capellas, quod vocatur *dai-belle*. Et si aliqua defalta in custodia contigerit, escavingores debent illos inbreviare et ad primum hustingum vicecomitibus tradere. Potest etiam vicecomes, si vult, cogere eos jurare de defalta quod nulli inde deferebunt nec aliquem celabunt.—(Round, *Commune of London*, p. 255.)

III. *The Folk-moot of the city.*

Treis folkesimotz chevels sunt en l'an. Li uns si est a la feste Seint Michiel, pur saveir qi est vescunte, e pur oir sun cummandement. E lautre si est al Noel, pur les guardes

tenir. Le tierz si est a la feste Seint Johan pur garder la cite d'arsun pur la grant sekeresce. Si nul home de Lundres sursiet nul de ices treis folkesimotz, si est el forfeit le roi xl sol. Mais par la lei de Lundres deit le vescunte faire demander celui que il voldra saveir mon se il i est u nun. . . . Si le prudome dit que il ni fud pas sumuns, co deit lom saveir par le bedel de la guarde. Si le bedel dit que il i fud sumuns, a husteng ateinz en est, kar li bedel nad nul altre testimonie, ne aveir ne deit, fors le gros seint que lom sune a folkesimote a Seint Pol.

[There are three chief folkmoots annually. One at Michaelmas, to know who is sheriff, and to hear his commands. The second at Noël for keeping the wards. The third at St. John's day to protect the city from fire, by reason of the great drought. If any Londoner neglect one of these three, he is in the king's forfeiture for forty shillings. But by the law of London the sheriff ought to have enquiry made concerning any one of whom he would know, for certain, whether he is there ór not. . . . If the good man say that he was not summoned, that must be ascertained from the beadle of the ward. If the beadle says he was summoned, the man is convicted at the husting; for the beadle has no other witness, nor ought to have than the great bell which is rung at St. Paul's for the folk-moot.—M. E. Bateson in *E. H. R.*, xvii. 502.]

IV. *The Husting-court.*

. . . § 2. Si lom se claime al vescunte de dette, le vescunte le deit sumundre al husteng. Si il sursiet ke il ni uienge, si li deit lom jugier le vielz jugement. E quel est le vielz jugement ? Se il meint en la socne le rei prendre un nam de xl sol. e laisier le par plege. E se il meint en socne de iglise, u de barun, le veskunte le deit guaitier el chemin le rei, e metre le par plege, kar tel est le vielz jugement. § 3. Si l'om se claime al vescunte de bature u de medlee, si sanc i ad u plaie, si deit le veskunte venir la et metre le malfaitur par plege pur le sanc. E les aldremans dirunt si le rei deit aueir le plai u le vescunte. § 4. Si lom plai suit en la curt le roi, co est a saueir en husteng . . . se li testimonie sunt a dreit nume, dunc deit lom jugier que il viengent avant a quinzaine, e sulunc co que il parlerunt les aldermans en durunt dreit.

[§ 2. If a man makes claim to the sheriff of debt, the sheriff should summon the accused to the husting. If he neglects

to come, the claimant ought to be adjudged the old judgment. And what is the old judgment? If the accused stays in the king's soke, to take a distraint of 40*s.* and release it by pledge. And if he remains in a soke of a church or of a baron the sheriff must lie in wait for him on the king's highway, and put him in pledge; for that is the old judgment. § 3. If a man makes claim to the sheriff of battery or of affray, if there is blood or wound, then the sheriff ought to come and put the malefactor in pledge for the blood. And the aldermen shall say whether the king ought to have the plea or the sheriff. § 4. If a plea is sued in the king's court, to wit in the husting . . . if the witnesses are properly named then it should be adjudged that they come forward in a fortnight; and according as they speak the aldermen shall give right.—M. E. Bateson in *E. H. R.*, xvii. 492.]

PART VI

SELECT CHARTERS AND EXCERPTS; *Henry III*

A. D. 1216–1272

ARCHBISHOPS OF CANTERBURY: Stephen Langton, 1216–1228; Richard le Grand, 1229–1231; Edmund Rich, 1234-1240; Boniface of Savoy, 1245–1270. CHIEF JUSTICES: Hubert de Burgh, 1216–1232; Stephen Segrave, 1232–1234; Hugh Bigot, 1258–1260; Hugh le Despencer, 1260; Philip Basset, 1261. CHANCELLORS: Richard de Marisco, 1216–1226; Ralph Neville, 1226–1244; Walter de Merton, 1261; Nicolas de Ely, 1263; Thomas Cantilupe, 1265; Walter Giffard, 1265; Godfrey Giffard, 1267; Richard Middleton, 1269–1272.

THE thirteenth century was a period unparalleled in mediaeval history for brilliancy and fertility. It abounded with great men—kings, statesmen, and scholars. Coming between the hard-headed and hard-handed industry of the twelfth, and the cruel, frivolous, unreal splendour of the fourteenth, it unites all that is noble in the former, all that is romantic in the latter. A period more productive of ideas in every department of culture the world has never seen. But it was in some respects a precocious age. Many of the ideas which it produced luxuriantly, and for which its heroes risked all, were premature. Hence it is a period of great failures answering to too great designs. The long reign of Henry III extends over more than half of this wonderful age: and the history of England has very much in common with the general character of the time. Henry himself was anything but a great man. Although free from some of the most glaring faults of his family, he was vain and mean, foolish and false. Yet the brilliancy of the time shed some little glory upon him. He filled in Europe a position created for him perhaps by the labours of his grandfather and uncle, brought into prominence by the failure and fall of Frederick II, and made influential by his close connexion

with the other sovereigns of Christendom; but out of all proportion to his ability. He was magnificent, liberal, a patron of art, and a benefactor of foreigners. His reputation for wealth laid him open to the extortions of all the needy in Europe; his patronage of them left him poor; and his poverty brought out his meanness and deceit at home. He seems, like his father, to have had a facility for incurring deadly personal enmity. He had not the energy, impulsiveness, and general cleverness of John, and was quite as unready. In an age of great ministers such a monarch would have been even more insignificant in his own country than Henry actually was. But after he took the administration into his own hands he had no great minister; all the able statesmanship was on the side of the opposition. The difficulties of the kingdom and the hardships of the people did not retard their growth. In the great variety of expedients used to promote the purposes of government, in the raising of revenue, the levying of forces, the amendment of laws, and the execution of political designs, there is distinctly traceable a development of the national life on its ancient basis; a constant tendency to get rid of feudal forms and feudal principles. The early years of the reign, in which the penalty for John's misrule was still being paid, were to a certain extent marked by reaction: feudal habits were resuscitated during the anarchy, and had to be met by old measures. The premature development of constitutional principles in the later years should be compared with this. Between the two, the reign singularly epitomizes both earlier and later history. In 1225 we are among the 'adulterine' castles and foreign mercenaries of Stephen's reign; in 1258 we are deep in the reforming projects which were still premature under Edward II and Richard II. The constitutional history of the time is a study of considerable labour, owing partly to this diversity of characteristics, and partly to the abundant supply of evidences which themselves share the experimental character of the politics of the day.

The natural division of the reign is into three epochs: the first containing the sixteen years during which the government was in the hands of William Marshall and Hubert de Burgh; the second, from 1232 to 1252, during which Henry acted either under the influence of Peter des Roches, or as his own minister on the same principles; and the third, from 1252 to 1272, during which the struggle with the barons lasted, and the power of the king was, sometimes with and sometimes without his apparent acquiescence, controlled by compulsory advisers.

I. William Marshall lived long enough to finish the struggle with the French: he died in 1219. The tutelage of the papal legates continued until 1221, when Archbishop Langton obtained the recall of Pandulf and a promise that no new legate should be sent during his life. The foreign influences were thus got rid of. But the dangerous friends remained; William of Aumâle, who represented the old feudal party, was brought to submission in 1221; and Falkes de Breauté, who represented the foreign mercenaries, in 1224. The field was open to Hubert de Burgh and Peter des Roches, who, until the country was at peace, worked fairly together. The poverty of the crown, and the exhaustion of its resources by the measures taken to secure the country and to recover the French inheritance, necessitated heavy taxation and constant renewals of the charters; and the circumstances were such as to provoke strong opposition and dislike of both the ministers. In 1227 Henry dismissed Peter des Roches, repudiated the charters of the forests, and put himself into the hands of Hubert, who for the next five years governed well, though not with brilliant success. His principles were those of a strong administrator; the charters were scarcely regarded as binding, but some respect was shown to the spirit of them: notwithstanding the omission of the 12th and 14th articles of John's charter, the taxes were asked as a matter of course; but all objections to a grant were systematically

ignored. The great leader of the opposition at this period was the Earl of Chester, Ranulf, a determined opponent of royal and papal exactions, whose attitude shows very remarkably the alteration in the character of the older feudal nobility produced by the training of Henry II's reign.

II. Hubert de Burgh was dismissed with the greatest ingratitude and with his usual meanness by Henry in 1232 : and with the adoption of Peter des Roches as his prime minister began the king's earlier series of difficulties with his nobles. The foreign relations of his mother, and after his marriage in 1236, those of his wife ; the rapacity of the papal envoys, and Henry's foolish compliance with all their demands ; and the expenses incurred in the king's attempts to maintain his position in continental politics, increased the troubles. The leader of the opposition now was the earl marshal Richard, who died in 1234. This was a period of great exactions and unfeeling tyranny on the king's part ; the period of S. Edmund and Robert Grosseteste, whose experiences threw the great body of the clergy into determined opposition to the joint oppression of king and pope. It was also the period of the rise of Simon de Montfort. The political history is little more than a detail of heavy demands for money, ineffectual protests, and ever-increasing irritation. The king's wisest adviser was his brother Earl Richard of Cornwall, who was more astute, more plausible, and probably more honest, certainly much more able, than Henry. For a great part of the period Henry acted without the assistance of the regular staff of ministers. Stephen Segrave, who after the disgrace of Hubert de Burgh occupied the once great post of Justiciar, was dismissed in 1234, and no successor on the old terms was appointed. The Chancellor, Ralph Neville, in spite of constant struggles with the king and practical loss of power, retained his office until 1244 ; after which Henry ruled with no properly constituted Justiciar, Chancellor, or Treasurer. As the irritation increased, the absence of these functionaries, who until they were lost

sight of had been objects of dislike, became a ground of complaint; and the idea gained ground that it was the right of the community to limit the king's prerogative by the appointment of his counsellors. The details of the transactions of the whole period are abundant, intricate, and dreary.

III. The history of the last twenty years of the reign is full of incident, character, and development; and is so largely illustrated by documentary remains as to render detail on the present scale impossible. It is necessary, however, to distinguish between the two series of causes which were at work to produce the result. The conduct of the king originated both: his treatment of Simon de Montfort produced one; his behaviour in connexion with the Sicilian crown the other. It was the latter that created the general feeling against him. Simon's wrongs justified him, and his political ability qualified him, for taking a prominent part in opposition; but the natural leader was the Earl of Gloucester, although he also had private injuries to avenge. Personal jealousies and division of aims separated the leaders, and in the end caused the defeat of the movement. But before it came to a close Henry was being superseded by his son.

Excerpts.

A.D. 1216. ANN. WAVERL. p. 286. Coronatur autem Henricus III . . . puer novem annorum in festo Apostolorum Simonis et Judae, cum magna festinatione, volentibus sic parentibus et amicis ejus qui fideliter patri viventi adhaeserant, a domino legato Gwalone apud Gloucestriam, assistentibus ibidem episcopis Wintoniensi, Wigorniensi, Coventrensi, Bathoniensi, et comitibus qui puero adhaeserunt, scilicet comes Cestriae, Willelmus Marescallus comes Striguil et Penbroc, comes de Ferrariis, Willelmus Briwere, Savaricus de Malolacu; reliqui omnes comites et barones sequebantur Ludowicum. Nec multo post Gualo legatus concilium celebravit apud Bristollas in festivitate Sancti Martini, in quo coegit undecim episcopos Angliae et Walliae qui praesentes erant, et alios praelatos inferioris ordinis, sed et comites et

barones ac milites qui convenerant, Henrico regi fidelitatem jurare.

MATT. PARIS, iii. p. 2. Rex autem post coronationem suam remansit in custodia Willelmi comitis Penbroc, magni videlicet Marescalli.

A.D. 1217. LIBER DE ANTIQUIS LEGIBUS (ed. Stapleton), p. 203. . . . Tertio idus Septembris facta est pax inter praedictum regem Henricum et praedictum Lodewycum apud Kingestonam, per dominum Gallonem legatum domini papae, existente ibidem et congregato per praeceptum domini regis maximo exercitu militum et liberorum tenentium ab omni parte totius Angliae. . . . Postea IX° kalendas Octobris venerunt apud Mertonam dominus legatus, dominus Lodewycus et omnes fere magnates Angliae. . . . Dominus vero rex Angliae concessit et carta sua confirmavit omnibus liberis hominibus regni sui omnes libertates et liberas consuetudines quas habuerunt tempore praedecessorum suorum cum augmentatione aliarum libertatum in praedicta carta contentarum: quae quidem carta quia dominus rex nullum proprium sigillum tunc temporis habuit propter minorem aetatem, sigillata fuit sigillo praedicti legati et sigillo domini Willelmi Marescalli Angliae senioris, rectoris praedicti regis et regni sui.

A.D. 1218. MATT. PARIS, iii. p. 33. Rex Henricus ad Natale Domini fuit apud Norhamtonam, Falcasio regiae festivitati necessaria omnia administrante. Erant autem his diebus multi in Anglia quibus tempore belli praeteriti dulcissimum fuerat de rapinis vixisse; unde nunc post pacem denunciatam et omnibus concessam non potuerunt prurientes manus a praeda cohibere. Horum autem principales fuerunt incentores Willelmus comes Albemarliae, Falcasius cum suis castellanis, Robertus de Veteriponte, Brienus de Insula, Hugo de Bailluel, Philippus Marc, et Robertus de Gaugi, cum aliis multis qui castella quorundam episcoporum ac magnatum cum terris et possessionibus, contra regis prohibitionem et illorum voluntatem, detinere praesumpserunt.

ANN. WAVERL. p. 290. Post festum Sancti Michaelis convenerunt apud Londoniam sapientes Angliae, et renovaverunt leges et libertates secundum cartam regis Johannis, quam fecerat baronibus, et in modum chirographi scripserunt, et sigillo Gualonis legati, et Stephani archiepiscopi Cantuariensis, et Walteri archiepiscopi Eboracensis, et Willelmi episcopi

Londoniensis, et Willelmi Marescalli confirmaverunt, donec rex juvenis sigillum cursale habere videretur. . . . Gualo legatus ab Anglia recessit circa festum Sancti Clementis, et statim successit ei dominus Pandulfus legatus.

A.D. 1219. MATT. PARIS, iii. p. 43. . . . Willelmus senior Marescallus regis et regni rector, diem clausit extremum. . . . Post cujus mortem memoratus rex in custodia Petri Wintoniensis episcopi remansit.

A.D. 1220. ANN. WAVERL. p. 293. Secundo coronatus est Henricus III rex Angliae in die Pentecostes apud Westmonasterium. Accepit etiam tailagium per Angliam de singulis carucis duos solidos.

A.D. 1221. FLORES HISTORIARUM, ii. p. 173. Die lunae videlicet proxima ante festum beatae Mariae Magdalenae Pandulfus Norwicensis electus cessit legationi suae ex mandato domini papae Honorii, praesentibus Ricardo Sarisburiensi, Petro Wintoniensi, Eustachio Londoniensi episcopis apud Westmonasterium, nullo alio tunc ei in legatione succedente. . . . Willelmus de Fortibus comes de Albamarla, occupans quaedam castra injuste, ad pacem domini regis nolens redire, excitavit contra eum hostilem rebellionem in Lincolnia, unde episcopo et singulis fautoribus ejus a legato Pandulfo et episcopis et clero Angliae ob scelus tale perpetratum excommunicatis, idem comes irreverenter coactus est ad deditionem.

A.D. 1222. ANN. WAVERL. p. 296. Concessit rex Henricus de tota Anglia, per consilium domini Stephani Cantuariae archiepiscopi et aliorum magnatum terrae, in subsidium Terrae Sanctae adquirendae, de quolibet comite iii. marcas, de quolibet barone i. marcam, de quolibet milite xii. denarios, de quolibet libero homine i. denarium, de quolibet homine habente catallum ad valentiam dimidiae marcae unum denarium. Sed concessio ista parum aut nihil profuit, quia cito postea contradictum est, et ad effectum minime perductum.

A.D. 1223. MATT. PARIS, iii. pp. 75–6. Rex . . . in octavis Epiphaniae, apud Londonias veniens cum baronibus ad colloquium, requisitus est ab archiepiscopo Cantuariensi et magnatibus aliis, ut libertates et liberas consuetudines, pro quibus guerra mota fuit contra patrem suum, confirmaret. Et sicut archiepiscopus ostendit evidenter, idem rex diffugere non potuit quin hoc faceret, cum in recessu Ludovici ab Anglia juraverit, et tota nobilitas regni cum eo, quod libertates

praescriptas omnes observarent et omnibus traderent observandas. Quod audiens Willelmus Briwere qui unus erat ex consiliariis regis, pro rege respondens dixit, 'Libertates quas petitis, quia violenter extortae fuerunt, non debent de jure observari.' Quod verbum archiepiscopus moleste ferens increpavit eum dicens, 'Willelme,' inquit 'si regem diligeres pacem regni non impedires.' Videns autem rex archiepiscopum in iram commotum dixit 'Omnes libertates illas juravimus et omnes astricti sumus ut quod juravimus observemus'.

Ib. iii. p. 79. Eodem anno surrexit murmuratio non modica a magnatibus Angliae, contra Hubertum de Burgo Justitiarium . . . Accessit praeterea ad majoris odii incentivum adventus nunciorum regis quos Romam miserat, qui bullam domini papae archiepiscopis Angliae et eorum suffraganeis deferebant, quae talem continebat sententiam, videlicet quod dominus papa regem Angliae plenae aetatis adjudicaverat, quod ex tunc negotia regni idem rex principaliter cum suorum domesticorum consilio ordinaret. Significavit etiam . . . quatinus auctoritate apostolica denunciarent comitibus, baronibus, militibus et aliis universis qui custodias habebant castrorum, honorum, et villarum quae ad regis dominicum spectabant, ut continuo visis litteris regi illas redderent, contradictores autem per censuram ecclesiasticam ad satisfactionem compellerent. Unde pars maxima comitum et baronum . . . supradictas occasiones praetendebat ut pacem regni perturbaret.

A.D. 1224. ANN. WAVERL. p. 299. Nonnulli alienigenarum ejecti sunt et amoti de castellis et custodiis suis in Anglia. . . . Ipse vero Falkesius . . . in patriam suam reversus est.

MATT. PARIS. iii. p. 88. Regi vero pro maximis laboribus suis et expensis, tam a praelatis, quam a laicis, concessum est per totam Angliam carucagium, de qualibet caruca duo solidi argenti. Magnatibus item concessit rex scutagium, videlicet de scuto quolibet duas marcas sterlingorum.

A.D. 1225. ANN. DUNSTAPL. p. 93. Generali colloquio Lundoniis celebrato, petiit rex a baronibus suis pro regni defensione auxilium generale: barones vero vice versa libertates quasdam exegerunt a rege Johanne concessas et ab ipso rege postmodum confirmatas, licet nondum, ballivis suis impedientibus, servatas. Post multas vero sententiarum

revolutiones, communiter placuit, quod rex tam populo quam plebi libertates, prius ab eo puero concessas, jam major factus indulsit. Et vice versa archiepiscopi, episcopi, comites, barones, et viri religiosi ipsi regi in tanto discrimine quintam decimam mobilium suorum liberaliter concesserunt. Quod quia clerici saeculares non admiserant, impetravit rex litteras domini papae ad clerum Angliae generales, de auxilio competenti ei conferendo secundum beneficiorum suorum facultates.

A.D. 1227. MATT. PARIS, iii. p. 122. Rex Anglorum, mense Februario, apud Oxoniam consilio congregato, denunciavit coram omnibus se legitimae esse aetatis, ut de cetero, solutus a custodia, regia negotia ipse principaliter ordinaret. Et sic qui prius tutorem habuit et rectorem Willelmum Mareschallum dum viveret et postmodum Petrum Wintoniensem episcopum, excussit se, per consilium Huberti de Burgo Justitiarii regni, de consilio et gubernatione dicti episcopi et suorum qui regi fuerant prius quasi paedagogi. . . . In eodem itaque concilio fecit rex cancellare et cassare omnes cartas in provinciis omnibus regni Angliae de libertatibus forestae, postquam jam per biennium in toto regno fuerant usitatae ; hanc occasionem praetendens, quod cartae illae concessae fuerant, et libertates scriptae et signatae, dum ipse erat sub custodia.

A.D. 1229. MATT. PARIS, iii. pp. 186–9. Fecit rex convenire apud Westmonasterium, Dominica qua cantatur *Misericordia Domini*, archiepiscopos, episcopos, abbates, priores, Templarios, Hospitalarios, comites, barones, ecclesiarum rectores, et qui de se tenebant in capite, ad locum praefixum et diem, ut audirent negotia [sc. de decimis petitis pro guerra contra Fredericum II] memorata et de rerum exigentiis communiter tractarent. . . . Rex . . . factus est baculus arundineus. . . . Comites vero et barones et laici omnes plane decimas se daturos contradixerunt, nolentes baronias suas vel laicas possessiones Romanae ecclesiae obligare. Episcopi quoque et abbates, priores et alii ecclesiarum praelati . . . tandem consenserunt, metuentes excommunicationis sententiam. . . . Solus autem comes Cestrensis Ranulfus stetit viriliter nolens terram suam redigere in servitutem, nec permisit de feudo suo viros religiosos vel clericos decimas memoratas conferre, quamvis Anglia et Wallia, Scotia et Hybernia ad solutionem compellerentur.

A.D. 1232. MATT. PARIS, iii. pp. 211, 220. Convenerant eo

tempore, nonas Martii, ad colloquium apud Westmonasterium ad vocationem regis, magnates Angliae, tam laici quam praelati. Quibus rex proposuit quod magnis esset debitis implicatus causa bellicae expeditionis quam nuper egerat in partibus transmarinis ; unde necessitate compulsus ab omnibus generaliter auxilium postulavit. Quo audito comes Cestriae Ranulfus, pro magnatibus regni loquens, respondit quod comites, barones, ac milites qui de eo tenebant in capite, cum ipso erant ibi corporaliter praesentes, et pecuniam suam ita inaniter effuderunt quod inde pauperes omnes recesserunt, unde regi de jure auxilium non debebant. Et sic petita licentia laici omnes recesserunt. Praelati vero regi respondentes dixerunt quod episcopi multi et abbates qui vocati erant, non fuerunt praesentes, et sic petierunt inducias quousque ad diem certum possent omnes pariter convenire . . . Rex . . . coepit a vicecomitibus et ballivis aliisque ministris suis de redditibus et rebus omnibus ad fisci commodum spectantibus ratiocinium exigere. . . .

Ib. iii. p. 220. Per idem tempus rex, per consilium Petri Wintoniensis episcopi, Hubertum de Burgo protojustitiarium regni ab officio suo . . . amovit ; et Stephanum de Segrave solo nomine militem subrogavit, IIII. kalendas Augusti.

Ib. iii. p. 223. Convenerunt . . . apud Lamheiam ad colloquium, in Exaltatione Sanctae Crucis, coram rege episcopi et alii ecclesiarum praelati cum proceribus regni ; ubi concessa est regi, pro debitis quibus comiti Britanniae tenebatur astrictus, quadragesima pars rerum mobilium ab episcopis, abbatibus, prioribus, clericis et laicis.

A.D. 1233. MATT. PARIS, iii. pp. 240–5. Rex . . . tenuit curiam suam ad Natale apud Vigorniam, ubi, ut dicitur, de consilio Petri Wintoniensis episcopi, omnes naturales curiae suae ministros a suis removit officiis et Pictavienses extraneos in eorum ministeriis subrogavit . . . Tunc rex missis litteris suis vocavit omnes de regno comites et barones ad colloquium, ut venirent apud Oxoniam ad festum Sancti Johannis ; sed ipsi noluerunt ad ejus mandatum venire. . . . Cum audissent magnates praefati quod paulatim applicuerunt in regno praedones multi cum equis et armis, a rege invitati ; cum nullum pacis vidissent vestigium, . . . supersederunt ad diem sibi statutum venire, denunciantes regi per nuncios solemnes, quatinus omni dilatione remota ejiceret Petrum Wintoniensem

episcopum et ceteros Pictavienses de curia sua; sin autem, ipsi omnes de communi consilio totius regni ipsum cum iniquis consiliariis suis a regno depellerent, et de novo rege creando contrectarent.

A.D. 1234. MATT. PARIS, iii. p. 290. Tunc rex, qui ut pax fieret modis omnibus suspirabat, fecit convocare per litteras suas proscriptos omnes ut venirent Gloverniam, Dominica proxima ante Ascensionem Domini, IV^to^ scilicet kalendas Junii, ad colloquium, plenam gratiam ipsius cum suis haereditatibus recepturi.

CHRON. T. WYKES, (ed. Luard), p. 77. Rex Henricus fecit talliari omnes civitates et burgos et maneria sua propria per totam Angliam.

A.D. 1236. ANN. BURTON. p. 249. Anno regni regis Henrici filii regis Johannis vicesimo, die Mercurii in crastino Sancti Vincentii, in curia domini regis apud Mertone coram domino rege Henrico et coram venerabili patre domino Edmundo Cantuariensi archiepiscopo et coepiscopis suis, et coram majori parte comitum et baronum nostrorum Angliae pro coronatione domini regis et reginae, et pro communi utilitate totius Angliae provisum fuit tam a praedictis archiepiscopo, episcopis, comitibus et baronibus quam a nobis, et concessum quod de cetero isti articuli [sc. Assisa de Merton] teneantur in regno Angliae.

MATT. PARIS, iii. p. 362. Eodem quoque anno IV. kalendas Maii, congregati sunt magnates Angliae Londini ad colloquium, de negotiis regni tractaturi. . . . Ubi cum de multis tractaretur, unum laudabiliter consummavit, scilicet quod amotis omnibus vicecomitibus substituerentur alii, eo quod nimis a tramite veritatis et justitiae corrupti muneribus exorbitarunt. . . . Sigillum quoque suum ab episcopo Cicestrensi cancellario suo, qui officium suum irreprehensibiliter administravit, existens singularis columna veritatis in curia, exegit rex instantissime. Sed idem cancellarius hoc facere renuit, videns impetum regis modestiae fines excedentem; dixitque se nulla ratione hoc posse facere, cum illud communi consilio regni suscepisset, quapropter nec illud similiter sine communi assensu regni alicui resignaret.

A.D. 1237. MATT. PARIS, iii. pp. 380–3. Misit . . . [rex] continuo per omnes fines Angliae scripta regalia, praecipiens omnibus ad regnum Angliae spectantibus, videlicet, archiepi-

scopis, episcopis, abbatibus et prioribus installatis, comitibus et baronibus, ut omnes sine omissione in octavis Epiphaniae Londoniis convenirent, regia negotia tractaturi totum regnum contingentia. . . . Indignantes responderunt se undique et saepe nunc vicesima, nunc tricesima, nunc quinquagesima gravari promittendo et persolvendo. . . . Promisit . . . libertates Magnae Cartae suis fidelibus regni sui ex tunc inviolabiliter observare. . . . Concessa est igitur benigne tali conditione regi ea vice tricesima regni pars, omnium scilicet mobilium, salvis tamen unicuique auro suo et argento, equis et armis.

A. D. 1242. MATT. PARIS, iv. pp. 181–2. Imminente vero purificatione beatae Virginis, totius Angliae nobilitas, tam praelatorum quam comitum et baronum, secundum regium praeceptum est Londoniis congregata. . . . Contradixerunt igitur regi in faciem, nolentes amplius sic pecunia sua frustratorie spoliari. Rex igitur, Romanorum usus versutis fallaciis . . . vocavit in secretam cameram suam singillatim nunc hunc nunc illum more sacerdotis poenitentes vocantis ad confessionem. Et sic, quos non potuit universos, singulos singillatim . . . conabatur astutius enervare, petensque ab eis auxilium pecuniare, ait ' Ecce, quid concessit ille abbas mihi in subsidium ; ecce, quid alius ' . . . Multi tamen steterunt, nullo modo volentes recedere a communi responsione, prout conjuraverant.

Ib. iv. p. 227. Scutagium per totam Angliam rex Angliae sibi fecit extorqueri.

A. D. 1243. MATT. PARIS, iv. p. 242. Cives Londoniarum ad gravissimam compulsi sunt redemptionem quae tallagium dicitur, sub hac forma ; venerunt exactores et regales aeditui ad illum vel illum civem dicentes, ' Tantam et tantam oportet te pecuniam domino regi in longinquis partibus pro commoditate regni militanti et nimis indigenti, donec in regno suo restauretur, commodare.' Et secundum voluntatem et aestimationem extortorum, pecuniam civium mutilarunt.

A. D. 1244. MATT. PARIS, iv. p. 362. Convenerant regia submonitione convocati Londoniis magnates totius regni, archiepiscopi, episcopi, abbates, priores, comites et barones. In quo concilio petiit rex ore proprio in praesentia magnatum in refectorio Westmonasteriensi auxilium sibi fieri pecuniare. . . . Cui fuit responsum quod super hoc tractarent. Recedentesque magnates de refectorio, convenerunt archiepiscopi

et episcopi, abbates et priores, seorsum per se super hoc diligenter tractaturi. Tandem requisiti fuerunt ex parte eorum comites et barones si vellent suis consiliis unanimiter consentire in responsione et provisione super his facienda. Qui responderunt quod sine communi universitate nihil facerent. Tunc de communi assensu electi fuerunt ex parte cleri, electus Cantuariensis, Wintoniensis, Lincolniensis et Wigorniensis episcopi; ex parte laicorum Ricardus comes frater domini regis, comes Bigot, comes Legecestriae Simon de Monteforti, et comes Marescallus Walterus; ex parte vero baronum Ricardus de Muntfichet, et Johannes de Bailloil, et de Sancto Edmundo et de Rameseia abbates; ut quod isti duodecim providerent in communi recitaretur; nec aliqua forma domino regi ostenderetur auctoritate duodecim, nisi omnium communis assensus interveniret. Et quia carta libertatum quas dominus rex olim concesserat et pro cujus conservatione archiepiscopus Cantuariensis Edmundus juraverat, fidejusserat et certissime pro rege promiserat, nondum exstitit observata, et auxilia quae toties concessa fuerant domino regi ad nullum profectum regis vel regni devenerant; et per defectum cancellarii brevia contra justitiam pluries fuerant concessa; petitum fuit ut secundum quod elegerant, justitiarius et cancellarius fierent per quos status regni solidaretur, ut solebat. Et ne per compulsionem concilii aliquid novum statuere videretur, noluit petitioni magnatum consentire, sed promisit se emendaturum quae ex eorum parte audierat. Unde datus fuit terminus eis usque in tres septimanas a Purificatione Beatae Virginis ut ibidem iterum tunc convenirent.

Ib. iv. p. 372. Convenientibus autem iterum magnatibus cum praelatis generaliter Londoniis . . . renovata fuit petitio regis super auxilio pecuniari sibi faciendo. Circa quod de die in diem convenit eos dominus rex, tum in propria persona, tum per internuncios solemnes per quos promisit se libertates quas juraverat in coronatione sua, super quibus cartam confecerat, integerrime servaturum . . . Tandem unanimiter . . . concesserunt domino regi ad maritandam filiam suam primogenitam, de omnibus qui tenent de domino rege in capite, de singulis scutis viginti solidos solvendos.

Ib. iv. p. 395. In crastino autem Animarum convenientes magnates Angliae, Rex cum instantissime, ne dicam impudentissime, auxilium pecuniare ab eis iterum postularet, toties laesi et illusi contradixerunt ei unanimiter et uno ore in facie.

A. D. 1246. MATT. PARIS, iv. p. 518. Medio vero quadragesimae . . . edicto regio convocata convenit ad PARLAMENTUM generalissimum regni Anglicani totalis nobilitas Londoniis, videlicet praelatorum tam abbatum et priorum quam episcoporum, comitum quoque et baronum, ut de statu regni jam vacillantis efficaciter prout exegit urgens necessitas contrectarent. Angebat enim eos gravamen intolerabile a curia Romana incessanter illatum. . . .

A. D. 1248. MATT. PARIS, v. p. 5. In octavis . . . Purificationis edicto regio convocata totius regni Angliae nobilitas convenit Londoniis, ut de regni negotiis nimis perturbati et depauperati et temporibus nostris enormiter mutilati diligenter et efficaciter simul cum domino rege contrectaret. Advenerunt igitur illuc, excepta baronum, militum, nobilium, necnon et abbatum, priorum, et clericorum multitudine copiosa, novem episcopi cum totidem comitibus. . . . Et cum proposuisset dominus rex . . . pecuniare auxilium postulare, redargutus est graviter super hoc quod non erubescebat tunc tale juvamen exigere, praesertim quia quando in ultima tali exactione, cui nobiles Angliae vix consenserunt, confecit cartam suam, quod amplius talem non faceret magnatibus suis injuriam et gravamen. . . . Calumniatur itaque dominus rex graviter . . . eo quod, sicut magnifici reges praedecessores sui habuerunt, justitiarium nec cancellarium habet nec thesaurarium per commune consilium regni prout deceret et expediret, sed tales qui suam qualemcunque, dummodo sibi quaestuosam, sequuntur voluntatem.

A. D. 1249. MATT. PARIS, v. p. 73. Ad clausum vero Pascha convenerunt magnates Angliae, prout condictum inter eos prius fuerat Londoniis, ut quod rex saepe promiserat eisdem saltem tunc adimpleret, videlicet de cancellario, justitiario et thesaurario per consilium eorum constituendis. Sed cum omnia se certissime crederent recepturos, comitis Ricardi, qui eorum omnium summus esse videtur, absentia progressum negotii penitus impedivit.

A. D. 1251. MATT. PARIS, v. p. 223. XIII^{tio} kalendas Martii habitum est Parlamentum magnum Londini.

A. D. 1253. FLORES HISTORIARUM, ii. p. 384. In quindena Paschae adunato magno parlamento petierunt praelati fere omnes, in simul congregati, ut dominus rex, cartas conservans et libertates quas saepius promiserat, sanctam insuper ecclesiam

permitteret suis gaudere libertatibus, maxime de electionibus praelatorum tam cathedralium ecclesiarum quam conventualium. Quae omnia rex se indempniter observaturum protestans, eorundem una cum aliis magnatibus, ad suae praecipue peregrinationis subsidium postulatum de contributione reportavit assensum. Concessa est igitur regi decima pars proventuum ecclesiasticorum per triennium, a militibus vero scutagium illo anno, scilicet ad scutum tres marcae. Rex autem bona fide promisit se omnia inviolabiliter observaturum, quae et alias multoties juraverat et pater suus Johannes primo affirmabat, et, ut certiores fierent de promisso, praecepit super hoc in praesentia sua sententiam proferri in publicum.

A.D. 1255. ANN. BURTON. p. 336. Henricus rex Angliae in quindena a Pascha tenuit parliamentum suum apud Westmonasterium: convocatis ibidem . . . totius regni episcopis, abbatibus, comitibus et baronibus universis ibi praesentibus . . . exigebat sibi auxilium exhiberi, et ut quidam qui ibidem affuerunt asserebant, disposuit rex habere taylagium quod dicitur *horngelth*. Magnates autem e contra petebant, ut secundum consuetudinem regni tres personas possent per electionem in regno habere, videlicet capitalem justitiarium, cancellarium et thesaurarium . . . neutro concesso, datus est dies ad deliberandum super his, usque in quindenam a festo Sancti Michaelis.

Ib. p. 360. Post festum Sancti Michaelis . . . tenuit rex parliamentum suum apud Westmonasterium, convocatis ibidem episcopis, abbatibus et prioribus, comitibus et baronibus et totius regni majoribus, in quo petebat a clero de laicis feodis suis sibi suffragium exhiberi ad negotium stulte et incircumspecte pro regno inchoatum Siciliae prosequendum; disponens de suo consilio iniquo hoc prius a clero, et postmodum a populo majori et minori extorquere. Episcopi vero, abbates, priores et procuratores qui ibidem pro universitate affuerunt, . . . gravamina summo pontifici . . . destinarunt. . . . ' Procuratores clericorum beneficiatorum archidiaconatus Lincolniae pro tota communitate proponunt quod gravati sunt quod decima beneficiorum suorum domino regi fuit concessa ipsis non vocatis.' . . .

A.D. 1257. MATT. PARIS, v. pp. 621–4. In media Quadragesima factum est magnum parlamentum. . . . In parlamento autem . . . rex in audientia totius populi, adducto monstratoque

omnibus Edmundo quem protulerat in medium vestitum indumento Apuliensi, ait, 'Videte fideles mei filium meum Edmundum quem Dominus ad regalis excellentiae dignitatem gratuita sua gratia vocavit.' . . . Et addidit asserens quod de consilio et benigno favore papae et ecclesiae Anglicanae, ad regnum Siciliae acquirendum, se obligavit sub poena regni sui amittendi ad solutionem centum millium marcarum et quadraginta millia marcarum exceptis usuris. . . . Item decimas totius cleri impetravit generales per quinquennium continuandas . . . item fructus omnium ecclesiasticorum beneficiorum vacaturorum primi anni usque ad quinquennium. His auditis, omnium aures tinniebant et corda vehementer obstupuerunt. . . . Promiserunt regi ad suas instantes necessitates—ea tamen conditione addita ut Magnam Cartam . . . observaret—quinquaginta duo millia marcarum, in irrestaurabile damnum ecclesiae Anglicanae.

ANN. BURTON. p. 391. *Rationes episcoporum et cleri contra petitionem domini regis.* . . . 'Item, cum ad solutionem istius pecuniae ab initio non essemus requisiti nec aliquo modo obligati, nec contraxit dominus rex consentientibus tacite nec expresse, immo penitus nobis ignorantibus, ad consummationem propositi negotii nullatenus urgeri volumus nec debemus.'

A.D. 1258. MATT. PARIS, v. p. 676. Post diem Martis, quae vulgariter Hokedai appellatur, factum est Parlamentum Londoniis. Rex namque multis et arduis negotiis sollicitabatur, scilicet de negotio regni Apuliae. . . . Exegit (nuncius papalis) . . . pecuniam infinitam de qua persolvenda se obligavit papa mercatoribus pro ipso rege. . . .

Ib. v. p. 688. Duravit adhuc praelibati Parlamenti altercatio videlicet inter regem et regni magnates, usque diem Dominicam proximam post Ascensionem . . . dilatum est parlamentum usque ad festum Sancti Barnabae apud Oxoniam diligenter celebrandum.

ANN. BURTON. p. 438. Ad provisionem et regni in melius reformationem et ordinationem faciendam, sub fidei sacramento prolati sunt ibidem articuli qui indigerent in regno correctione.

Ib. p. 445. Fuerunt etiam in eodem parliamento apud Oxoniam xxiv. electi, videlicet xii. ex parte domini regis et totidem ex parte communitatis, quorum ordinationibus et

provisionibus dominus rex et dominus Edwardus filius ejus . . . se supposuerunt super status eorundem et totius Angliae correctione et in melius reformatione.

A. D. 1259. ANN. BURTON. p. 471. Festivitate Sancti Edwardi . . . in quindena Sancti Michaelis apud Westmonasterium per dominum regem regaliter celebrata, communitas bacheleriae Angliae significavit domino Edwardo filio regis, comiti Gloverniae, et aliis juratis de consilio apud Oxoniam, quod dominus rex totaliter fecerat et adimplevit omnia et singula quae providerant barones et sibi imposuerant facienda ; et quod ipsi barones nihil ad utilitatem reipublicae sicut promiserant fecerunt, nisi commodum proprium et damnum regis ubique, et quod nisi inde fieret emendatio, alia ratio pactum reformaret. Dominus Edwardus statim pro se respondit quod juramentum quoddam fecerat apud Oxoniam etiam invitus, sed non propter hoc quin foret paratus ad praestandum sponte dictum juramentum, et ad exponendum se morti pro communitate Angliae et pro utilitate reipublicae secundum quod juratum exstitit apud Oxoniam : et mandavit praecise baronibus de consilio juratis quod nisi juramentum suum praedictum adimplerent, ipse usque ad mortem staret cum communitate et promissa faceret adimpleri. Tandem videntes barones magis expedire promissa sua per seipsos adimpleri quam per alios, publice fecerunt provisiones suas promulgari. . . .

A. D. 1260. CHRON. T. WYKES, p. 125. Post Pascha factum est parliamentum baronum apud Londoniam. Rex itaque perpendens barones grandia moliri et aliquid velle machinari contra eum, ingressus est civitatem Londoniae, et fecit custodiri portas civitatis, resumpsitque turrim Londoniae, expellens Hugonem Dispensarium qui factus fuit justitiarius per ordinationem baronum ; et fecit venire scaccarium suum de Westmonasterio ad Sanctum Paulum in domibus Episcopi Londoniae in quibus hospitabatur : et coepit proponere plures articulos contra barones, et rationes prout sibi videbatur satis efficaces, quod non tenebatur observare promissiones Oxoniae. Unde ortum est schisma inter ipsum et proceres ; tandem post multas altercationes compromiserunt in arbitros.

A. D. 1261. CHRON. T. WYKES, p. 128. Rex Angliae in festo Pentecostes apud Wintoniam detulit litteras domini papae, et publice ostendit eas baronibus, quod absolutus fuit a juramento quod praestiterat de providentiis baronum obser-

vandis. . . . Et deposuit dominum Hugonem Dispensarium de officio justitiarii. . . .

A. D. 1263. CHRON. T. WYKES, p. 133. In ipsa congregatione magnatum quae facta est Londoniae in festo Pentecostes, comes Leycestriae et multi alii murmuraverunt adversus regem Angliae, dominam reginam, et dominum Edwardum, dicentes eos perjurium incurrisse nisi providentias Oxoniae observarent.

Ib. p. 138. Habitis . . . frequenter tractatibus inter partes, circa festum Nativitatis Dominicae, rex et universi complices sui et fautores, comes cum universis sibi cohaerentibus, rex Romanorum, dominus Edwardus, comites, barones, milites, archiepiscopi, episcopi, universi ecclesiarum praelati, immo generaliter clerus et populus unanimi assensu compromittebant in regem Franciae super omnibus contentionibus ortis inter regem et proceres suos occasione provisionum Oxoniae.

A. D. 1264. CHRON. T. WYKES, p. 139. Rex Francorum . . . vicesimo die Natalis . . . suum praecipitavit arbitrium, ipsumque auctoritate apostolica roboravit, regemque Angliae judicialiter pristinae potestati restituit, provisiones Oxoniae seu statuta abrogavit penitus et cassavit, decernens quod rex justitiarium, cancellarium, thesaurarium, vicecomites, ballivos, consiliarios et ministros sibi eligeret quoscunque vellet.

ANN. DUNSTAPL. p. 232. Pridie idus Maii . . . apud Lewes . . . dictus comes et qui cum eo erant ceperunt regem Angliae, et regem Alemanniae, et Edwardum filium regis. . . .

LIBER DE ANTIQUIS LEGIBUS, p. 65. Tunc episcopi et barones tenuerunt parlamentum, in quo ordinatum fuit, sicut patet in litteris domini regis.

A. D. 1265. ANN. WAVERL. p. 358. In crastinò Sancti Hilarii factum est parliamentum magnum Londoniae.

CHRON. T. WYKES, pp. 163, 174. Die Jovis in septimana Pentecostes dominus Edwardus . . . collegis suis mirantibus quo pergeret valedixit. . . . Gestum est . . . proelium extra oppidum Eveshamiae die Martis proxima post festum Sancti Petri ad Vincula, quarto die mensis Augusti. . . .

ANN. WAVERL. p. 366. Ad festum Exaltationis Sanctae Crucis factum est parliamentum magnum apud Wintoniam . . . prolongatum fuit . . . usque ad festum Sancti Edwardi apud Westmonasterium.

A. D. 1266. ANN. WAVERL. p. 371. Ad festum Sancti

Bartholomaei apostoli factum est parliamentum magnum apud Kenilworthe ubi dominus rex Henricus concessit baronibus suis antiquam cartam, et requisivit decimam per triennium totius ecclesiae Anglicanae ; responsumque fuit communiter et legatus assensum praebuit, quod primo formarent pacem, si qua posset fieri, et postea super his responsum domino regi facerent ; quod dominus rex bene concessit. Provisum igitur ibidem est per assensum regis, Edwardi, legati, episcoporum, abbatum, baronum omnium ibidem existentium, ut eligerentur sex viri, tres episcopi et tres barones indigenae, ipsique sex alios sex eligerent episcopos et barones indigenas . . . qui ordinarent de statu regni.

STAT. MARLB. A.D. 1267, regni autem domini Henrici filii regis Johannis LII°, in octavis Sancti Martini, providente ipso domino rege ad regni sui meliorationem et ad exhibitionem justitiae prout regalis officii exposcit utilitas pleniorem, convocatis discretioribus ejusdem regni tam de majoribus quam de minoribus, ita provisum est et statutum et concorditer ordinatum. (*Statutes of the Realm*, I, p. 19.)

A.D. 1270. ANN. WINTON. p. 108. Item parliamentum omnium magnatum Angliae in quindena Paschae, ad tractandum de vicesima. . . . Post octavas Sancti Johannis convenerunt fere omnes magnates apud Londoniam ad tractandum de praemissis.

A.D. 1271. ANN. WINTON. p. 110. Post octavas Epiphaniae magnates regni parliamentum suum tenuerunt Londoniae, ubi per communem assensum domini Ricardi regis Alemanniae, Gilberti comitis Gloverniae, Philippi Basset et aliorum, exhaeredatis concessae sunt eorum terrae.

A.D. 1216. Announcement of the reissue of the Charter.[1]

Rex, G. de Marisco justitiario suo Hiberniae, salutem. Multiplices vobis referimus gratiarum actiones de bono et fideli servitio vestro, felicis memoriae Johanni quondam regi Angliae, patri nostro, exhibito, nobisque exhibendo, et de hiis quae per fidelem nostrum Radulfum de Norwico clericum nobis signi-

[1] It has been pointed out by Mr. G. J. Turner, *Trans. Royal Hist. Soc.*, xviii (1904), p. 255, that this document is written in the Latinity of the Papal Chancery. He infers that it may have been the work of the legate Gualo.

ficastis. Cum igitur jubente Ipso Cujus famulantur imperio mors et vita, dominus et pater noster ex hac luce feliciter migraverit, cujus anima in caelestibus collocetur, vos scire volumus quod celebratis solemniter ex more debito regalibus exsequiis in ecclesia Beatae Mariae Wygorniae, convenerunt apud Gloucestriam plures regni nostri magnates, episcopi, abbates, comites et barones, qui patri nostro viventi semper astiterunt fideliter et devote, et alii quamplurimi ; ubi in festo apostolorum Simonis et Judae, in ecclesia Beati Petri Gloucestriae, applaudentibus clero et populo, per manus domini Gualonis tituli Sancti Martini presbyteri cardinalis et apostolicae sedis legati in Anglia, et episcoporum tunc praesentium, invocata Spiritus Sancti gratia, publice fuimus in regem Angliae inuncti et coronati, fidelitate et homagio omnium illorum nobis exhibitis ; quod vobis ut fideli nostro duximus intimandum, ut de honore et successu nostro felici gloriemini. Sane cum audierimus indignationem quondam inter memoratum dominum patrem nostrum et quosdam nobiles regni nostri exortam, —utrum cum causa vel sine causa nos nescimus,—sic agitatam exstitisse, et illam volumus in perpetuum aboleri et oblivisci, quod nunquam menti nostrae adhaereat, et ut, cessante causa, cesset effectus ; quicquid exstiterit erga ipsum conceptae indignationis parati sumus et volumus pro viribus nostris expiare, singulis praebendo quod ratio dictaverit cum subditorum consilio, et deletis de regno pravis consuetudinibus, in libertatum et liberarum consuetudinum innovatione dies nobilium patrum nostrorum reformare gratiosos, unicuique tribuendo quod sibi debebit cum ratione competere. Ad hoc sciatis quod celebrato nuper concilio apud Bristollum ubi convenerunt universi Angliae praelati tam episcopi et abbates, quam priores, et multi tam comites quam barones, qui etiam universaliter fidelitatem nobis publice facientes, concessis eis libertatibus et liberis consuetudinibus ab eis prius postulatis, et ipsis approbatis, prompti et proni ad mandatum nostrum in partes suas cum gaudio sunt reversi. Speramus quidem et in Domino confidimus quod regni nostri status, Divina favente clementia, in melius commutabitur. De domina regina matre nostra vel fratre nostro mittendis in Hiberniam vobis respondemus, quod habito consilio fidelium nostrorum et assensu, quod nobis et commodo nostro et regni nostri expedire viderimus, faciemus. Rogamus igitur dilectionem vestram quatenus, etsi bonae memoriae Johanni patri nostro fideles exstiteritis et

devoti, tanto nobis fideliores existere curetis, quanto scitis nos auxilio et consilio vestro in hac teneritate nostra plurimum indigere ; capientes fidelitatem de singulis Hiberniae magnatibus, et aliis qui nobis ipsam facere tenentur. Retinuimus adhuc nobiscum Radulfum de Norwico, ut de hiis et aliis per ipsum voluntatem nostram plenius vobis significemus, volentes ut eisdem vos et ceteri fideles nostri Hiberniae gaudeatis libertatibus, quas fidelibus nostris de regno Angliae concessimus, et illas vobis concedimus et confirmamus. Teste, etc.—(*Foedera*, i. 145.)

A.D. 1216. First Charter of Henry III.

This first reissue of the Great Charter took place in the council at which, under the influence of the legate, the mass of the prelates and the barons who were not committed to the French party swore fealty to the king. The omissions and additions in this edition are very significant. All the merely temporary provisions of the Great Charter of John are left out as a matter of course, as well as the clauses which were intended to secure the execution of them. The most important omissions are those of the articles which restricted the king's power of increasing his revenue, such as those touching the ferm of the counties, the debts of the Jews, and the alterations in the forest law ; and most especially that which forbids the levying of an aid over and above the three ordinary ones, without the consent of the 'Commune Consilium regni'. The ministers seem to have felt that in the present state of affairs it would be foolish to bind the young king by the terms which were necessary to bind his father, and that as they themselves were likely to have the administration of the country for some years, it would be imprudent to tie their own hands. It must be considered also that some of the most determined opponents of the royal power were in arms against the king, and that thus one element of the compromise was wanting. The archbishop, whose political foresight would have discerned the danger of omitting the 12th and 14th clauses, was at Rome. It is curious to mark the papal sanction given by Gualo

to the Charter, the original enactment of which had subjected the barons to the sentence of excommunication. The minor alterations are characterized by the increased authority allowed to feudal lords over their vassals, and the relaxation of the terms defining the royal appointment of judges. Whilst the taxative power of the crown is thus unfettered, its judicial control over the feudatories seems to be weakened; and this denotes perhaps the spirit of the compromise. In the 42nd article, however, the ministers guard against the suspicion of dishonest dealing with the Charter: the omitted clauses are merely respited, and a promise is made of full consideration and ready completion of all that shall conduce to the well-being of the body politic.

Henricus Dei gratia rex Angliae, dominus Hyberniae, dux Normanniae et Aquitanniae, et comes Andegaviae, archiepiscopis, episcopis, abbatibus, comitibus, baronibus, justitiariis, forestariis, vicecomitibus, praepositis, ministris, ballivis et omnibus fidelibus suis, salutem. Sciatis nos intuitu Dei et pro salute animae nostrae et omnium antecessorum et successorum nostrorum, ad honorem Dei et exaltationem sanctae ecclesiae et emendationem regni nostri, per consilium venerabilium patrum nostrorum domini Gualonis tituli Sancti Martini presbiteri cardinalis apostolicae sedis legati, Petri Wintoniensis, R. de Sancto Asapho, J. Bathoniensis et Glastoniensis, S. Exoniensis, R. Cicestrensis, W. Coventrensis, B. Roffensis, H. Landavensis, — Menevensis, — Bangorensis et S. Wygornensis, episcoporum; et nobilium virorum Willelmi Mariscalli comitis Penbrociae, Ranulfi comitis Cestriae, Willelmi de Ferrariis comitis Derebiae, Willelmi comitis Albemarlae, Huberti de Burgo Justitiarii nostri, Savarici de Maloleone, Willelmi Brigwerre patris, Willelmi Brigwerre filii, Roberti de Curtenay, Falkesii de Breaute, Reginaldi de Vautort, Walteri de Lascy, Hugonis de Mortuo Mari, Johannis de Monemute, Walteri de Bello campo, Walteri de Clifford, Rogeri de Clifford, Roberti de Mortuo Mari, Willelmi de Cantilupe, Mathaei filii Hereberti, Johannis Mariscalli, Alani Basset, Philippi de Albiniaco, Johannis Extranei et aliorum fidelium nostrorum :—

1. Imprimis—illaesas. Concessimus—nostris; *as in the*

charter of John, the intermediate clause on freedom of election *being omitted.*

2. Si quis—feodorum ; *as in the charter of John, art.* 2.

3. Si autem haeres alicujus talium fuerit infra aetatem, dominus ejus non habeat custodiam ejus nec terrae suae, antequam homagium ejus ceperit ; et postquam talis haeres fuerit in custodia, cum ad aetatem pervenerit, scilicet viginti unius anni, habeat haereditatem suam sine relevio et sine fine, ita tamen quod si ipse dum infra aetatem fuerit, fiat miles, nihilominus terra remaneat in custodia domini sui usque ad terminum praedictum.

4. Custos—praedictum est. *M. C. Joh. art.* 4.

5. Custos—carucis ; *M. C. Joh. art.* 5, *ending thus* : et omnibus aliis rebus ad minus secundum quod illam recepit. Haec omnia observentur de custodiis archiepiscopatuum, episcopatuum, abbatiarum, prioratuum, ecclesiarum et dignitatum vacantium, excepto quod custodiae hujusmodi vendi non debent.

6. Haeredes—disparagatione. *M. C. Joh. art.* 6, *omitting the concluding words.*

7. Vidua—dos sua, *M. C. Joh. art.* 7, *adding,* nisi prius ei fuerit assignata, vel nisi domus illa sit castrum ; et si de castro recesserit, statim provideatur ei domus competens in qua possit honeste morari quousque dos sua ei assignetur secundum quod praedictum est.

8. Nulla—tenuerit. *M. C. Joh. art.* 8.

9. Nos vero vel ballivi—reddendum, *M. C. Joh. art.* 9 ; et ipse debitor paratus sit inde satisfacere, nec plegii—non habens, *M. C. Joh. art.* 9 ; unde reddat, aut reddere nolit cum possit, plegii—plegios. *M. C. Joh. art.* 9.

The 10th, 11th, and 12th articles of the charter of John are omitted.

10. Civitas Londoniarum habeat omnes antiquas libertates et liberas consuetudines suas. Praeterea volumus et concedimus quod omnes aliae civitates et burgi et villae et barones de quinque portubus et omnes portus habeant omnes libertates et liberas consuetudines suas. *M. C. Joh. art.* 13.

The 14th and 15th articles of the charter of John are omitted.

11. Nullus—debetur. *M. C. Joh. art.* 16.

12. Communia—certo. *M. C. Joh. art.* 17.

13. Recognitiones—praedictas. *M. C. Joh. art.* 18.

14. Et si—minus. *M. C. Joh. art.* 19.

15. Liber homo—visneto. *M. C. Joh. art.* 20, *ending* proborum et legalium hominum de visneto.

16. Comites—delicti. *M. C. Joh. art.* 21.

17. Nullus clericus—ecclesiastici, *M. C. Joh. art.* 22, *omitting* de laico tenemento suo.

18. Nec villa—debent. *M. C. Joh. art.* 23.

19. Nullus vicecomes—nostrae. *M. C. Joh. art.* 24.

The 25th article of the charter of John is omitted.

20. Si aliquis—partibus suis. *M. C. Joh. art.* 26.

The 27th article of the charter of John is omitted.

21. Nullus constabularius vel ejus ballivus capiat blada vel alia catalla alicujus qui non sit de villa ubi castrum situm est, nisi statim inde reddat denarios aut respectum inde habere possit de voluntate venditoris; si autem de villa fuerit, teneatur infra tres septimanas pretium reddere. *M. C. Joh. art.* 28.

22. Nullus—exercitu. *M. C. Joh. art.* 29.

23. Nullus vicecomes vel ballivus noster vel alius capiat equos vel carettas alicujus pro cariagio faciendo, nisi reddat liberationem antiquitus statutam, scilicet pro caretta ad duos equos decem denarios per diem, et pro caretta ad tres equos quatuordecim denarios per diem. *M. C. Joh. art.* 30.

24. Nec nos—fuerit. *M. C. Joh. art.* 31.

25. *M. C. Joh. art.* 32.

26. *M. C. Joh. art.* 33.

27. *M. C. Joh. art.* 34.

28. *M. C. Joh. art.* 35.

29. *M. C. Joh. art.* 36.

30. *M. C. Joh. art.* 37.

31. *M. C. Joh. art.* 38.

32. *M. C. Joh. art.* 39.

33. *M. C. Joh. art.* 40.

34. Omnes mercatores, nisi publice ante prohibiti fuerint, habeant—terra nostra. *M. C. Joh. art.* 41.

The 42nd article of the charter of John is omitted.

35. *M. C. Joh. art.* 43.

36. *M. C. Joh. art.* 44.

The 45th article of the charter of John is omitted.

37. *M. C. Joh. art.* 46, *adding*, et sicut supra declaratum est.

38. Omnes forestae quae afforestatae sunt tempore regis Johannis patris nostri statim deafforestentur, et ita fiat de

ripariis quae per eundem Johannem tempore suo positae sunt in defenso. *M. C. Joh. art.* 47.

The articles 48 *to* 53, *inclusive, of the charter of John are omitted.*

39. *M. C. Joh. art.* 54.

The 55*th article of the charter of John is omitted.*

40. Et si rex Johannes pater noster dissaisierit vel elongaverit Wallenses—nostris ; *as in M. C. Joh. art.* 56.

The 57*th,* 58*th, and* 59*th articles of the charter of John are omitted.*

41. *M. C. Joh. art.* 60.

The remaining articles of the charter of John are omitted as well as the Forma Securitatis, &c.

42. Quia vero quaedam capitula in priore carta continebantur quae gravia et dubitabilia videbantur, scilicet de scutagiis et auxiliis assidendis, de debitis Judaeorum et aliorum, et de libertate exeundi de regno nostro vel redeundi in regnum, et de forestis et forestariis, warennis et warennariis, et de consuetudinibus comitatuum et de ripariis et earum custodibus, placuit supradictis praelatis et magnatibus ea esse in respectu quousque plenius consilium habuerimus, et tunc faciemus plenissime tam de hiis quam de aliis quae occurrerint emendanda, quae ad communem omnium utilitatem pertinuerint et pacem et statum nostrum et regni nostri. Quia vero sigillum nondum habuimus, praesentem cartam sigillis venerabilis patris nostri domini Gualonis tituli Sancti Martini presbyteri cardinalis, apostolicae sedis legati, et Willelmi Mariscalli comitis Penbrokiae, rectoris nostri et regni nostri fecimus sigillari. Testibus omnibus praenominatis et aliis multis. Datum per manus praedictorum domini legati et Willelmi Mariscalli comitis Penbrokiae apud Bristollum duodecimo die Novembris anno regni nostri primo.—(*Statutes of the Realm—Charters of Liberties,* 14–16.)

A.D. 1217. Summons of the Sheriff to bring up the County in arms.

The following writ directs the sheriff to collect the whole force of his county in arms : (1) the feudal levy in the proportion determined by the extent of the holdings of the tenants in chief ; and (2) the force armed under the Assize of Arms on the non-feudal principle. It was probably issued in prepara-

tion for the march of the Earl Marshal on London, whither Lewis had betaken himself after the battle of Lincoln.

The writ bears the same relation to the summons of the barons to military service, as the summons to the county court bears to the summons to Parliament. (See below, A.D. 1231.)

Rex vicecomiti Berkescirae, salutem. Praecipimus tibi quod venire facias usque Oxoniam die Dominica proxima post festum Sancti Petri ad Vincula totum servitium quod archiepiscopi, episcopi, abbates et viri religiosi, comites et barones et omnes alii de ballia tua, quicunque fuerint, nobis debent; et venire facias illuc ad diem illum similiter omnes illos de ballia tua qui non sunt homines praedictorum et per catalla eorum et alia jurati sunt, promptos et paratos ad eundum in servitium nostrum quo eis praeceperimus. Quia etc. T. apud Oxoniam, XXII die Julii.—(*Report on the Dignity of a Peer*, App. p. 2.)

A.D. 1217. Second Charter of Henry III.

The second reissue of the Great Charter took place after the treaty of peace and Lewis's resignation of his claims to the crown. It is undated; but was probably put forth either on the occasion of the council at Merton on the 23rd of September, when a large part of Lewis's supporters gave in their adhesion to Henry; or six weeks later at London, when the Charter of the Forest was granted. The differences between this edition and that of the preceding year are numerous, important, and minute. The clauses touching the forest administration are omitted, to be embodied in a new charter. The respiting clause (art. 42) is also omitted, although the introduction of a new provision (art. 46), saving all existing privileges, may be regarded as serving the same purpose. Besides the 46th article, the 42nd, 43rd, 44th, and 47th are new: the former three, which arrange for the holding of the sheriff's court and view of frank-pledge, forbid the fraudulent bestowal of estates on religious houses, and assert the king's rights to scutages; and the 47th, which directs the destruction of the adulterine castles, are most interesting. They show how great a reaction had set

in since the days of John, and that the condition of the country, having fallen back into the evils of the last century, required the same measures of restoration. The minute legal changes in the earlier articles indicate the same state of things: the reduction of the assizes of the itinerant justices from four to one annually; and the disuse of the plan of election of knights to take the recognitions (art. 13), look like a concession to the feudal spirit which long continued hostile to the king's provincial judicature. It would be dangerous to infer too much of a political meaning in these: but the old feudal party, which it was necessary for the moment to reconcile, was the only one which could gain by the limitation of the powers of either the royal or the local tribunals which was involved in these changes.

Henricus Dei gratia rex Angliae, dominus Hiberniae, dux Normanniae, Aquitanniae, et comes Andegaviae, archiepiscopis, episcopis, abbatibus, prioribus, comitibus, baronibus, vicecomitibus, praepositis, ministris, et omnibus baillivis et fidelibus suis praesentem cartam inspecturis, salutem. Sciatis quod intuitu Dei et pro salute animae nostrae et animarum antecessorum et successorum nostrorum, ad exaltationem sanctae ecclesiae et emendationem regni nostri, concessimus et hac praesenti carta confirmavimus pro nobis et haeredibus nostris in perpetuum, de consilio venerabilis patris nostri domini Gualonis tituli Sancti Martini presbiteri cardinalis et apostolicae sedis legati, domini Walteri Eboracensis archiepiscopi, Willelmi Londoniensis episcopi, et aliorum episcoporum Angliae et Willelmi Mariscalli comitis Pembrokiae rectoris nostri et regni nostri, et aliorum fidelium comitum et baronum nostrorum Angliae, has libertates subscriptas tenendas in regno nostro Angliae in perpetuum :—

Art. 1–6. M. C. 1216, art. 1–6.

7. Vidua—maneat (M. C. 1216, art. 7), in capitali mesuagio mariti sui per xl. dies post obitum ipsius mariti sui, infra quos assignetur ei dos sua nisi prius fuerit ei assignata, vel nisi domus illa sit castrum, et si de castro—praedictum est; (M. C. 1216, art. 7) et habeat rationabile estuverium suum interim de communi. Assignetur autem ei pro dote sua tertia pars totius terrae mariti sui quae sua fuit in vita sua, nisi de minori dotata fuerit ad ostium ecclesiae.

Art. 8–12. M. C. 1216, art. 8–12.

13. Recognitiones—per unumquemque comitatum semel in anno qui cum militibus comitatuum capiant in comitatibus assisas praedictas.

14. Et ea quae in illo adventu suo in comitatu per justitiarios praedictos ad dictas assisas capiendas missos terminari non possunt, per eosdem terminentur alibi in itinere suo, et ea quae per eosdem, propter difficultatem aliquorum articulorum, terminari non possunt, referantur ad justitiarios nostros de banco et ibi terminentur.

15. Assisae de ultima praesentatione semper capiantur coram justitiariis de banco et ibi terminentur.

16. Liber homo—villanus alterius quam noster—visneto. M. C. 1216, art. 15.

17. M. C. 1216, art. 16.

18. Nulla ecclesiastica persona amercietur secundum quantitatem beneficii sui ecclesiastici, sed secundum laicum contenementum suum et secundum quantitatem delicti. M. C. 1216, art. 17.

19. M. C. 1216, art. 18.

20. Nulla riparia de cetero defendatur nisi illae quae fuerunt in defenso tempore Henrici regis avi nostri per eadem loca et eosdem terminos, sicut esse consueverunt tempore suo.

21. M. C. 1216, art. 19.

22. M. C. 1216, art. 20 : *omitting* et pueris.

23. Nullus constabularius—de villa ipsa fuerit infra xl. dies pretium reddat. M. C. 1216, art. 21.

24. M. C. 1216, art. 22.

25. M. C. 1216, art. 23.

26. Nulla caretta dominica alicujus ecclesiasticae personae vel militis vel alicujus dominae capiatur per baillivos praedictos.

27. M. C. 1216, art. 24.

28. M. C. 1216, art. 25.

29. M. C. 1216, art. 26.

30. M. C. 1216, art. 27.

31. M. C. 1216, art. 28.

32. M. C. 1216, art. 29.

33. M. C. 1216, art. 30.

34. Nullus ballivus ponat de cetero aliquem ad legem manifestam nec ad juramentum simplici loquela—inductis. M. C. 1216, art. 31.

35. Nullus liber homo capiatur vel imprisonetur, aut dissaisietur de libero tenemento suo vel libertatibus vel liberis consuetudinibus suis, aut utlagetur . . . terrae. M. C. 1216, art. 32.

36. M. C. 1216, art. 33.

37. M. C. 1216, art. 34.

38. Si quis—baro eam tenuit (M. C. 1216, art. 35). Nec nos occasione talis baroniae vel excaetae habebimus aliquam excaetam vel custodiam aliquorum hominum nostrorum nisi alibi tenuerit de nobis in capite ille qui tenuit baroniam vel excaetam.

39. Nullus liber homo de cetero det amplius alicui vel vendat de terra sua quam ut de residuo terrae suae possit sufficienter fieri domino feodi servitium ei debitum quod pertinet ad feodum illud.

40. Omnes patroni abbatiarum, qui habent cartas regum Angliae de advocatione vel antiquam tenuram vel possessionem, habeant earum custodiam—declaratum est. M. C. 1216, art. 37.

41. M. C. 1216, art. 39.

42. Nullus comitatus de cetero teneatur nisi de mense in mensem, et ubi major terminus esse solebat, major sit. Nec aliquis vicecomes vel baillivus suus faciat turnum suum per hundretum nisi bis in anno, et non nisi in loco debito et consueto, videlicet semel post Pascha et iterum post festum Sancti Michaelis. Et visus de franco plegio tunc fiat ad illum terminum Sancti Michaelis sine occasione, ita scilicet quod quilibet habeat libertates suas quas habuit et habere consuevit tempore Henrici regis avi nostri, vel quas postea perquisivit. Fiat autem visus de franco plegio sic, videlicet, quod pax nostra teneatur et quod tethinga integra sit sicut esse consuevit, et quod vicecomes non quaerat occasiones, et quod contentus sit de eo quod vicecomes habere consuevit de visu suo faciendo tempore Henrici regis avi nostri.

43. Non liceat alicui de cetero dare terram suam alicui domui religiosae ita quod illam resumat tenendam de eadem domo, nec liceat alicui domui religiosae terram alicujus sic accipere quod tradat eam illi a quo eam receperit tenendam. Si quis autem de cetero terram suam alicui domui religiosae sic dederit et super hoc convincatur, donum suum penitus cassetur et terra illa domino suo illius feodi incurratur.

44. Scutagium capiatur de cetero sicut capi consuevit tempore Henrici regis avi nostri.

45. M. C. 1216, art. 41.

46. Salvis archiepiscopis, episcopis, abbatibus, prioribus,

Templariis, Hospitalariis, comitibus, baronibus et omnibus aliis tam ecclesiasticis personis quam saecularibus, libertatibus et liberis consuetudinibus quas prius habuerunt.

47. Statuimus etiam de communi consilio totius regni nostri quod omnia castra adulterina, videlicet ea quae a principio guerrae motae inter dominum Johannem patrem nostrum et barones suos Angliae constructa fuerint vel reaedificata, statim diruantur. Quia vero nondum habuimus sigillum hanc [cartam] sigillis domini legati praedicti et comitis Willelmi Mariscalli rectoris nostri et regni nostri fecimus sigillari.—(*Statutes of the Realm—Charters of Liberties*, 17–19.)

A.D. 1217. Charter of the Forest.

The notion that John issued a Forest Charter distinct from the forest clauses of the Great Charter, although very ancient, is erroneous; the document given in Matthew Paris under that name being merely the Forest Charter of Henry III with an altered salutation. The following document is the first Forest Charter, and was issued by the Earl Marshal in Henry's name on the 6th of November, 1217. As an important piece of legislation it must be compared with the Forest Assize of 1184, and with the 44th, 47th, and 48th clauses of the Charter of John. It is observable that most of the abuses which are remedied by it are regarded as having sprung up since the accession of Henry II, but the most offensive afforestations have been made under Richard and John. These latter are at once disafforested; but those of Henry II only so far as they had been carried out to the injury of the landowners, and outside of the royal demesne. The heavy burden of attending the forest courts is remitted, as it had been in the Great Charter, and thus the exact analogy established by Henry II between the courts of the shire and those of the forest is abolished. The 9th and following articles repeal the most offensive clauses of the Assize of Woodstock.

Henricus Dei gratia rex Angliae, dominus Hiberniae, dux Normanniae, Aquitanniae, et comes Andegaviae, archiepiscopis, episcopis, abbatibus, prioribus, comitibus, baronibus,

justitiariis, forestariis, vicecomitibus, praepositis, ministris, et omnibus ballivis et fidelibus suis, salutem. Sciatis quod intuitu Dei et pro salute animae nostrae et animarum antecessorum et successorum nostrorum, ad exaltationem Sanctae Ecclesiae et emendationem regni nostri, concessimus et hac praesenti carta confirmavimus pro nobis et haeredibus nostris in perpetuum, de consilio venerabilis patris nostri Gualonis tituli sancti Martini presbiteri cardinalis et apostolicae sedis legati, domini Walteri Eboracensis archiepiscopi, Willelmi Londoniensis episcopi, et aliorum episcoporum Angliae, et Willelmi Marescalli comitis Penbrociae, rectoris nostri et regni nostri, et aliorum fidelium comitum et baronum nostrorum Angliae, has libertates subscriptas tenendas in regno nostro Angliae, in perpetuum :—

1. In primis omnes forestae quas Henricus rex avus noster afforestavit videantur per bonos et legales homines, et, si boscum aliquem alium quam suum dominicum afforestaverit ad dampnum illius cujus boscus fuerit, deafforestentur. Et si boscum suum proprium afforestaverit, remaneat foresta, salva communa de herbagio et aliis in eadem foresta illis qui eam prius habere consueverunt.

2. Homines qui manent extra forestam non veniant de cetero coram justitiariis nostris de foresta per communes summoniciones, nisi sint in placito, vel plegii alicujus vel aliquorum qui attachiati sunt propter forestam.

3. Omnes autem bosci qui fuerunt afforestati per regem Ricardum avunculum nostrum, vel per regem Johannem patrem nostrum usque ad primam coronationem nostram, statim deafforestentur, nisi fuerit dominicus boscus noster.

4. Archiepiscopi, episcopi, abbates, priores, comites et barones et milites et libere tenentes, qui boscos suos habent in forestis, habeant boscos suos sicut eos habuerunt tempore primae coronationis praedicti regis Henrici avi nostri, ita quod quieti sint in perpetuum de omnibus purpresturis, vastis et assartis, factis in illis boscis, post illud tempus usque ad principium secundi anni coronationis nostrae. Et qui de cetero vastum, purpresturam, vel assartum sine licentia nostra in illis fecerint, de vastis et assartis respondeant.

5. Reguardores nostri eant per forestas ad faciendum reguardum sicut fieri consuevit tempore primae coronationis praedicti regis Henrici avi nostri, et non aliter.

6. Inquisitio, vel visus de expeditatione canum existentium in foresta, de cetero fiat quando debet fieri reguardum, scilicet

de tertio anno in tertium annum ; et tunc fiat per visum et testimonium legalium hominum et non aliter. Et ille cujus canis inventus fuerit tunc non expeditatus det pro misericordia tres solidos, et de cetero nullus bos capiatur pro expeditatione. Talis autem sit expeditatio per assisam communiter quod tres ortilli abscidantur sine pelota de pede anteriori ; nec expeditentur canes de cetero nisi in locis ubi consueverunt expeditari tempore primae coronationis regis Henrici avi nostri.

7. Nullus forestarius vel bedellus de cetero faciat scotale, vel colligat garbas vel avenam vel bladum aliud vel agnos vel porcellos, nec aliquam collectam faciant ; et per visum et sacramentum duodecim reguardorum quando facient reguardum, tot forestarii ponantur ad forestas custodiendas, quot ad illas custodiendas rationabiliter viderint sufficere.

8. Nullum suanimotum de cetero teneatur in regno nostro nisi ter in anno ; videlicet in principio quindecim dierum ante festum Sancti Michaelis quando agistatores conveniunt ad agistandum dominicos boscos nostros ; et circa festum Sancti Martini quando agistatores nostri debent recipere pannagium nostrum ; et ad ista duo suanimota conveniant forestarii, viridarii et agistatores, et nullus alius per districtionem ; et tertium suanimotum teneatur in initio quindecim dierum ante festum Sancti Johannis Baptistae, pro feonatione bestiarum nostrarum, et ad istud suanimotum tenendum conveniant forestarii et viridarii et nulli alii per districtionem. Et praeterea singulis quadraginta diebus per totum annum conveniant viridarii et forestarii ad videndum attachiamenta de foresta, tam de viridi, quam de venatione, per praesentationem ipsorum forestariorum, et coram ipsis attachiatis. Praedicta autem suanimota non teneantur nisi in comitatibus in quibus teneri consueverunt.

9. Unusquisque liber homo agistet boscum suum in foresta pro voluntate sua et habeat pannagium suum. Concedimus etiam quod unusquisque liber homo possit ducere porcos suos per dominicum boscum nostrum, libere et sine impedimento, ad agistandum eos in boscis suis propriis vel alibi ubi voluerit. Et si porci alicujus liberi hominis una nocte pernoctaverint in foresta nostra, non inde occasionetur ita quod aliquid de suo perdat.

10. Nullus de cetero amittat vitam vel membra pro venatione nostra, sed si aliquis captus fuerit et convictus de captione venationis, graviter redimatur, si habeat unde redimi possit ;

et si non habeat unde redimi possit, jaceat in prisona nostra per unum annum et unum diem ; et, si post unum annum et unum diem plegios invenire possit, exeat a prisona ; sin autem, abjuret regnum Angliae.

11. Quicunque archiepiscopus, episcopus, comes vel baro transierit per forestam nostram, liceat ei capere unam vel duas bestias per visum forestarii, si praesens fuerit ; sin autem, faciat cornari, ne videatur furtive hoc facere.

12. Unusquisque liber homo de cetero sine occasione faciat in bosco suo, vel in terra sua quam habeat in foresta, molendinum, vivarium, stagnum, marleram, fossatum, vel terram arabilem extra cooperatum in terra arabili, ita quod non sit ad nocumentum alicujus vicini.

13. Unusquisque liber homo habeat in boscis suis aereas accipitrum et speruariorum et falconum, aquilarum, et de heyrinis, et habeant similiter mel quod inventum fuerit in boscis suis.

14. Nullus forestarius de cetero, qui non sit forestarius de feudo reddens nobis firmam pro balliva sua, capiat chiminagium aliquod in balliva sua ; forestarius autem de feudo firmam nobis reddens pro balliva sua capiat chiminagium ; videlicet pro careta per dimidium annum duos denarios, et per alium dimidium annum duos denarios, et pro equo qui portat sumagium per dimidium annum unum obolum, et per alium dimidium annum obolum, et non nisi de illis qui extra ballivam suam, tanquam mercatores, veniunt per licentiam suam in ballivam suam ad buscam, meremum, corticem vel carbonem emendum, et alias ducendum ad vendendum ubi voluerint : et de nulla alia careta vel sumagio aliquod chiminagium capiatur : et non capiatur chiminagium nisi in locis ubi antiquitus capi solebat et debuit. Illi autem qui portant super dorsum suum buscam, corticem, vel carbonem, ad vendendum, quamvis inde vivant, nullum de cetero dent chiminagium. De boscis autem aliorum nullum detur chiminagium forestariis nostris, praeterquam de dominicis boscis nostris.

15. Omnes utlagati pro foresta tantum, a tempore regis Henrici avi nostri usque ad primam coronationem nostram, veniant ad pacem nostram sine impedimento, et salvos plegios inveniant quod de cetero non forisfaciant nobis de foresta nostra.

16. Nullus castellanus vel alius teneat placita de foresta sive de viridi sive de venatione, sed quilibet forestarius de feudo

attachiet placita de foresta tam de viridi quam de venatione, et ea praesentet viridariis provinciarum, et cum irrotulata fuerint et sub sigillis viridariorum inclusa, praesententur capitali forestario cum in partes illas venerit ad tenendum placita forestae, et coram eo terminentur.

17. Has autem libertates de forestis concessimus omnibus, salvis archiepiscopis, episcopis, abbatibus, prioribus, comitibus, baronibus, militibus et aliis tam personis ecclesiasticis quam saecularibus, Templariis et Hospitalariis, libertatibus et liberis consuetudinibus in forestis et extra, in warenniis et aliis, quas prius habuerunt. Omnes autem istas consuetudines praedictas et libertates, quas concessimus in regno nostro tenendas quantum ad nos pertinet erga nostros, omnes de regno nostro tam clerici quam laici observent quantum ad se pertinet erga suos. Quia vero sigillum nondum habuimus, praesentem cartam sigillis venerabilis patris nostri domini Gualonis tituli Sancti Martini presbyteri cardinalis, apostolicae sedis legati, et Willelmi Marescalli comitis Penbrokiae, rectoris nostri et regni nostri, fecimus sigillari. Testibus praenominatis et aliis multis. Datum per manus praedictorum domini legati et Willelmi Marescalli apud Sanctum Paulum, Londoniis, sexto die Novembris, anno regni nostri secundo.—(*Statutes of the Realm—Charters of Liberties*, 20, 21.)

A.D. 1220. Writ for the Collection of a Carucage.

The method of assessing and collecting taxes varied very much and very rapidly. John, as we have seen, allowed the more elaborate expedients of his father and brother to be set aside, and the 'thirteenth' granted him in 1207 to be assessed by the sworn statement of the payers. The following writ substitutes the action of two knights chosen in the full assembly and by the 'will and counsel' of the county court. It is important, then, as illustrating the increased use of the representative principle in financial matters, and the connexion of election with representation which becomes henceforth unmistakable. But we must not suppose that this method was a final one; or that, in itself, the action of two chosen knights would be more effectual, just, or acceptable than the jury assessments which had been used in the reigns of

Henry II and Richard. The present plan also was very quickly superseded.

Rex Vicecomiti Norhamton., salutem. Scias quod pro magna necessitate nostra et urgentissima debitorum nostrorum instantia, necnon et pro conservatione terrae nostrae Pictaviae, concesserunt nobis sui gratia communiter omnes magnates et fideles totius regni nostri donum nobis faciendum, scilicet de qualibet caruca sicut juncta fuit in crastino Beati Johannis Baptistae proximo praeterito, anno regni nostri quarto, duos solidos, per manum tuam et duorum de legalioribus militibus comitatus tui colligendos, qui de voluntate et consilio omnium de comitatu in pleno comitatu eligentur ad hoc faciendum. Et ideo tibi praecipimus, firmiter et districte injungentes quatenus, convocato comitatu tuo pleno, de voluntate et consilio eorum de comitatu, eligi facias duos de legalioribus militibus totius comitatus qui melius sciant velint et possint huic negotio ad commodum nostrum intendere, et illis tecum assumptis statim donum illud per totam bailliam tuam facias assideri et colligi de singulis carucis, sicut praedictum est, exceptis dominicis archiepiscoporum, episcoporum et rusticorum suorum, et exceptis dominicis ordinis Cisterciensis et de Premustre. . . . . (*Close Rolls* I. 437.)

A. D. 1225. Third Charter of Henry III.

The peace of the country was restored in 1224; Hubert de Burgh having at length succeeded in expelling the last remnant of John's unprincipled mercenary followers. Henry (who was now pronounced to be of age) and his advisers began to contemplate the recovery of the continental inheritance; for this purpose he asked of his national council at Westminster in February, 1225, an aid of a 'fifteenth'. It was granted in consideration of the reissue of the charters, which were accordingly repromulgated, with two alterations: (1) the substitution of the 'spontanea et bona voluntate nostra' for the 'consilio' of the former charters; and (2) the insertion of the final clause, which specifies the granting of the aid as the price of the present concession. The wisdom of the latter change is obvious. The reason of the former is not so clear; nor are we

sufficiently well acquainted with the circumstances of the case to say whether it was regarded as binding the young king more certainly, and expressing his sense of independent and free action in the matter; or as the assertion on his part of his right to grant such a charter on his own prerogative, irrespective of the 'counsel' which had previously been required for a statutory enactment such as the charter was intended to be. The same changes are made in the Charter of the Forest, which was reissued at the same time.

A. D. 1225. HENRICUS Dei gratia . . . et emendationem regni nostri (as in M. C. 1217); spontanea et bona voluntate nostra dedimus et concessimus archiepiscopis, episcopis, abbatibus, prioribus, comitibus, baronibus et omnibus de regno nostro, has libertates subscriptas tenendas in regno nostro Angliae in perpetuum.

1–17. *Correspond with* M. C. 1217, artt. 1–21.

18. Si aliquis tenens . . . uxori ipsius et pueris suis rationabilibus partibus suis. M. C. 1217, art. 22.

19–37. *Correspond with* M. C. 1217, artt. 23–45. *The remaining article is as follows*:—Pro hac autem concessione et donatione libertatum istarum et aliarum libertatum contentarum in carta nostra de libertatibus forestae, archiepiscopi, episcopi, abbates, priores, comites, barones, milites, libere tenentes et omnes de regno nostro, dederunt nobis quintam decimam partem omnium mobilium suorum. Concessimus etiam eisdem pro nobis et haeredibus nostris quod nec nos nec haeredes nostri aliquid perquiremus per quod libertates in hac carta contentae infringantur vel infirmentur, et si de aliquo aliquid contra hoc perquisitum fuerit, nihil valeat, et pro nullo habeatur. Hiis testibus; domino S. Cantuar. archiepiscopo, E. London., J. Bathon., P. Winton., H. Linc., R. Sarr., B. Roffen., W. Wigornen., J. Elien., H. Hereford., R. Cicestr., W. Exon., episcopis; abbate Sancti Edmundi, abbate Sancti Albani, abbate de Bello, abbate Sancti Augustini Cant., abbate de Evesham, abbate de Westmon., abbate de Burgo Sancti Petri, abbate de Rading., abbate de Abendon., abbate de Maumebir., abbate de Winchecumb., abbate de Hida, abbate de Certes., abbate de Sireburn., abbate de Cern., abbate de Abotebir., abbate de Midelton., abbate de Seleby, abbate de Wyteby, abbate de Cirenc.; H. de Burgo, justi-

ciario ; R. comite Cestr. et Linc., W. comite Sarr., W. comite Warenn., G. de Clare comite Glouc. et Hertford., W. de Ferrar. comite de Derb., W. de Mandeville comite Essex., H. le Bigod comite Norff., W. comite Aubemarl., H. comite Hereford., Johanne constabulario Cestr., Roberto de Ros, Roberto filio Walteri, Roberto de Veteri Ponte, Willelmo Brigwerr., Ricardo de Munfich., Petro filio Herberti, Mathaeo filio Herberti, Willelmo de Albiniaco, Roberto Gresl., Reginaldo de Brahus, Johanne de Munem., Johanne filio Alani, Hugone de Mortuo Mari, Waltero de Bello Campo, Willelmo de Sancto Johanne, Petro de Malo lacu, Briano de Insula, Thoma de Muleton, Ricardo de Argentein, Gaufrido de Nevill., Willelmo Mauduit, Johanne de Baalun. Datum apud Westmonasterium undecimo die Februarii anno regni nostri nono.—(*Statutes of the Realm—Charters of Liberties*, 22–25.)

A.D. 1225. Writ for the Collection of the Fifteenth.

The aid which was granted by the council of the nation as the price of the reissue of the charters, was a tax of a fifteenth on ' mobilia ', or personal property of certain specified descriptions. The mode of assessing and collecting this impost is prescribed in the following writ, which also limits the incidence of the tax. The method seems to be devised so as to unite all the expedients of the former precedents. The assessment is to be made by the oath of the owner of taxable property : disputes are to be settled by reference to juries ; the proceeds are to be collected by the reeve and four men of each township ; and to be paid to four elected knights of the hundreds, and these are to hand over the money to the persons assigned by the king, and to whom the writ is addressed. Another expedient will be found further on, devised for the collection of the ' fortieth ' in 1232.

Rex Willelmo Basset, Radulfo de Crumbwell, Willelmo de Vernun, Henrico de Derlegh canonico Suwellae, et Roberto de Lee clerico, salutem. Assignavimus vos justitiarios nostros ad quintam decimam omnium mobilium assidendam et colligendam ad opus nostrum in comitatibus Notingeham et Dereby, in hac forma. Vicecomes noster Notingeham et Dereby coram

vobis venire faciet omnes milites comitatuum suorum die Dominica proxima ante mediam Quadragesimam apud Notingeham, ad quem diem eligi facietis quatuor legales milites de singulis hundredis vel wapentaccis, vel plures vel pauciores, secundum magnitudinem hundredorum vel wapentaccorum, ituros per singulos hundredos vel wapentaccos ad assidendum et colligendum quintam decimam omnium mobilium praedictorum. Exceptis tamen ab hac quinta decima quantum ad archiepiscopos, episcopos, abbates, priores et ceteros viros religionis, comites, barones, milites et liberos homines qui non sunt mercatores, omnimodis libris suis, et ornamentis ecclesiarum et capellarum, et equis ad equitandum, et equis carectariis et summariis et armis omnimodis; jocalibus, vasis, utensilibus, lardariis, cellariis et foenis; et exceptis bladis ad warnisturam castrorum emptis. Exceptis etiam ab hac quinta decima quantum ad mercatores qui de omnibus mercandisis et mobilibus suis quintam decimam dabunt, armis ad quae jurati sunt, et equis suis ad equitandum, et utensilibus domorum suarum, cellariis et lardariis ad victum suum. Exceptis etiam quantum ad villanos armis ad quae jurati sunt, et utensilibus suis, carne et pisce et potu suo quae non sunt ad vendendum, et foenis suis et furragio suo quae non sunt ad vendendum. Milites autem illi non ibunt in hundredos vel wapentaccos in quibus sunt residentes, sed in hundredos vel wapentaccos vicinos alios. Jurabit autem unusquisque exceptis comitibus, baronibus et militibus, propriorum mobilium suorum, et similiter mobilium duorum vicinorum suorum propinquorum, numerum, quantitatem et valorem. Et si forte inter ipsum cujus mobilia sunt et vicinos suos juratos de eisdem mobilibus dissensio ex hoc orta fuerit, milites ipsi per sacramentum duodecim proborum et legalium hominum vicinorum, vel totidem quot sufficere viderint ad veritatem inde inquirendam, veritatem inquirant et secundum illam veritatem quintam decimam capiant. Servientes vero et praepositi de terris comitum, baronum et militum, vel praepositi tantum si servientes ibi non fuerint, idem et eodem modo jurabunt de mobilibus dominorum suorum in singulis villis. Medietas autem hujusmodi quintae decimae perpacabitur ad festum Sanctae Trinitatis anno nono, et alia medietas ad festum Sancti Michaelis proxime sequens. Quam quidem quintam decimam milites illi recipient per manus quatuor legalium hominum et praepositorum singularum

villarum, per tallias inter eos inde factas, et sic receptam ferent ad vos, et vos eam reponetis in loco tuto, sive in ecclesia cathedrali, sive in abbatia, sive in prioratu ejusdem comitatus, sub sigillis vestris et sigillis militum, donec provisum fuerit quo mitti debeat. . . . (*Foedera*, i. 177.)

A. D. 1226. Writ for the summoning of Four Knights of the Shire.

The following writ is an interesting illustration of the extending use of the election of representatives to act for the shire, in matters neither judicial nor exclusively financial. The business on which they are called together, the disputed interpretation of some articles of the Great Charter, although not distinctly declared, is more of the character of *political deliberation* than anything that has hitherto been laid before them. It is not, however, in this aspect, of any great significance.

Rex vicecomiti Gloucestrescirae, salutem. Scias quod, ad petitionem magnatum nostrorum qui ad mandatum nostrum nuper convenerant apud Wintoniam, diem statuimus, videlicet in crastino Sancti Matthaei Apostoli anno regni nostro X^mo^, apud Lincolniam ad terminandum contentiones ortas inter quosdam vicecomites nostros et homines comitatuum suorum super quibusdam articulis contentis in carta libertatis eis concessae ; et ideo tibi praecipimus quod si qua hujusmodi contentio inter te et homines bailliae tuae orta fuerit pro qua averia sua ceperis, averia illa eis replegiari facias usque ad diem praedictum, et in proximo comitatu tuo dicas militibus et probis hominibus bailliae tuae quod quatuor de legalioribus et discretioribus militibus ex se ipsis eligant, qui ad diem illum sint apud Lincolniam pro toto comitatu, ad ostendendum ibi querelam quam habent versus te super articulis praedictis. Et tu ipse ibidem sis ad ostendendum rationem de demanda quam inde facies versus illos. Et habeas ibi nomina militum et hoc breve. Teste me ipso apud Wintoniam, XXII. die Junii, anno etc. X^mo^.

Eodem modo scribitur vicecomitibus Dorset. et Sumerset. ; Bedeford. et Bukingeham. ; Westmerilande ; Norhamt. ; Linc.—(*Report on the Dignity of a Peer*, App. i. p. 4.)

A.D. 1231. WRIT FOR ASSEMBLING THE COUNTY COURT BEFORE THE JUDGES ITINERANT.

From the following document we gather what was the exact composition of the shiremoot at this period. No change seems to have taken place in it since the reign of Henry I. It contains all the elements that were united in the 'Commune Consilium regni' at the time, 'archiepiscopos, episcopos, abbates, priores, comites, barones, milites, et omnes libere tenentes,' the very words in which the national councils of Henry II's reign are described; but it contains further the representative bodies; the ancient English townships each represented by the reeve and four men; the new municipalities represented by the twelve legal men from each borough. We begin to see more clearly the process by which the national council becomes the representative parliament. It will, when it is completed, be the concentration of all the constituents of the shiremoots in a central assembly; the permanence of the ancient popular elements, and the assimilation to them of the new municipal ones, make a perfect parliament possible. And these elements, which are the peculiar feature of the English parliament, are distinctly Teutonic in origin, and not a creation of feudalism.

REX vicecomiti Eboracensi, salutem. Summone per bonos summonitores omnes archiepiscopos, episcopos, abbates, priores, comites, barones, milites et omnes libere tenentes, de tota ballia tua, et de qualibet villa quatuor legales homines et praepositum, et de quolibet burgo duodecim legales burgenses per totam balliam tuam, et omnes alios qui coram justitiariis itinerantibus venire solent et debent, quod sint apud Eboracum in octavis Sanctae Trinitatis anno regni nostri decimo quinto, coram dilecto et fideli nostro S. de Segrave, Randulfo Filio Roberti, Briano Filio Alani, Willelmo de Insula, Roberto de Lexinton, Magistro Roberto de Schardelawe, et Willelmo de Londonia, quos justitiarios nostros constituimus, audituri et facturi praeceptum nostrum. Facias etiam tunc venire coram iisdem omnia placita coronae quae placitata non sunt, et quae emerserunt postquam justitiarii nostri ultimo itineraverunt in partibus illis ad omnia placita, et omnia attachiamenta

ad placita illa pertinentia, et omnes assisas et omnia placita quae posita sunt coram justitiariis ad primam assisam, cum brevibus assisarum et placitorum; ita quod assisae illae et placita pro defectu tui vel summonitionis tuae non remaneant. Faciatis etiam clamari et sciri per totam balliam tuam quod omnes assisae et omnia placita quae fuerunt atterminata et non finita coram justitiariis nostris apud Westmonasterium, vel coram justitiariis nostris qui ultimo itineraverunt in comitatu tuo de omnibus placitis, vel coram justitiariis illuc missis ad assisas novae disseisinae capiendas et gaiolas deliberandas, tunc sint coram praedictis justitiariis nostris apud Eboracum, in eodem statu in quo remanserunt per praeceptum nostrum vel per praeceptum praedictorum justitiariorum nostrorum itinerantium vel per justitiarios nostros de banco. Summone etiam omnes illos qui vicecomites fuerunt post ultimam itinerationem praedictorum justitiariorum in partibus illis, quod tunc sint ibidem coram praedictis justitiariis nostris, cum brevibus de assisis et placitis quae tempore suo receperunt, ad respondendum de tempore suo, sicut responderi debet coram justitiariis itinerantibus. Et habeas ibi summonitores et hoc breve. Teste H. de Burgo etc. apud Westmonasterium XX° die Aprilis.—(*Shirley, Royal Letters*, i. 395.)

A. D. 1231. WRIT FOR ASSEMBLING THE 'JURATI AD ARMA.'

This is a writ which helps us to realize very clearly the practical identity of the *jurati ad arma*, the local force armed by the Assize of Arms, with the ancient militia of the *fyrd*. The plan of commuting personal attendance for a contribution towards the equipment of a portion of the force, which had been applied to the feudal levy in 1205 (see p. 281), is here applied to the 'jurati'.

Mandatum est vicecomiti Gloucestriae quod, non obstante mandato regis ei facto de hominibus juratis ad arma et securibus veniendis ad exercitum regis, venire faciat tamen homines juratos ad ferrum, videlicet loricas et hauberionos et purpunctos; faciat etiam venire ad eundem exercitum tantum ducentos homines cum ducentis securibus et cum victualibus suis XL dierum, quae eis vicecomes faciat inveniri per homines comitatus sui juratos ad alia minuta arma, quos rex vult remanere in partibus suis. . . .—(*Cal. Close Rolls*, 1227–31, p. 595.)

A. D. 1232. Writ for the Collection of the 'Fortieth'.

The assessment in this case is to be made by four men and the reeve in each township on oath: and the four men are to be fixed on by election; an important indication of the usual process in such selections. The grant of the 'fortieth' is said to be made by the 'archbishops, bishops, abbots, priors, clergy, earls, barons, freeholders, and villeins'. If these words are to be understood literally, the freeholders and villeins must have been consulted in the shiremoots, or else the lords must have been supposed to represent their own villein-tenants in the 'Commune Consilium', as is the case in 1237 (see below, p. 358).

Henricus, Dei gratia, Rex Anglorum, Petro de Thaneo, Willelmo de Culewurthe et Adae filio Willelmi collectoribus quadragesimae, salutem. Sciatis quod archiepiscopi, episcopi, abbates, priores, et clerici terras habentes quae ad ecclesias suas non pertinent, comites, barones, milites, liberi homines, et villani de regno nostro, concesserunt nobis in auxilium quadragesimam partem omnium mobilium suorum apparentium, sicut ea habuerunt in crastino Sancti Matthaei, anno regni nostri XVI°, videlicet de bladis, carrucis, ovibus, vaccis, porcis, haraciis, equis carettariis et deputatis ad wainnagium in maneriis, exceptis bonis quae praedicti archiepiscopi, episcopi et aliae personae ecclesiasticae habent de ecclesiis parochialibus, et de ecclesiis praebendalibus et praebendis, et terris ad praebendas pertinentibus, et ecclesias parochiales spectantibus. Provisum est generaliter a praedictis fidelibus nostris, quod praedicta quadragesima hoc modo assideatur et colligatur; quod videlicet de qualibet villa integra eligantur quatuor de melioribus et legalioribus hominibus una cum praepositis singularum villarum, per quorum sacramentum quadragesima pars omnium mobilium praedictorum taxetur et assideatur super singulos, in praesentia militum assessorum ad hoc assignatorum; et postea per sacramentum duorum legalium hominum earundem villarum inquiratur et assideatur quadragesima omnium mobilium quae praedicti quatuor homines et praepositi habent, et districte imbrevietur et aperte de cujus vel de quorum baronia quaelibet villa fuerit in parte vel in toto. . . .—(*Matt. Paris*, iii. p. 230.)

A. D. 1235. Writ for the Collection of Scutage.

Although this tax is levied with the consent of the military tenants on whom it exclusively falls, the method of collection bears witness to the feudal character of the tax, and should be compared with the corresponding documents in the case of carucage, and of the aids of a 'fifteenth', a 'thirtieth', and a 'fortieth', which were more distinctly the result of a national vote. According to the text of the charter of liberties recently confirmed, the scutages were to be taken in the way in which they had been taken in Henry II's time (above, p. 343); and in that case, the scutage being simply a payment in commutation of legal service, it might have been levied without a special grant. But the form of a grant seems to have been gone through, and thus the spirit of the Great Charter of John was maintained, although the clause under which such proceedings should have taken place was expunged.

Rex vicecomiti Somerset., salutem. Scias quod comites et barones et omnes alii de toto regno nostro Angliae, spontanea voluntate sua et sine consuetudine, concesserunt nobis efficax auxilium ad magna negotia nostra expedienda. Unde provisum est de consilio illorum quod habeamus de singulis feodis militum qui de nobis tenent in capite et de wardis, tam de novo feffamento quam de veteri, duas marcas ad auxilium praedictum nobis faciendum. Unde providerunt reddere nobis unam medietatem ad festum Sancti Michaelis anno XIX^{no} et aliam medietatem ad Pascha anno XX^{o}. Providerunt etiam quod praedictum scutagium colligatur per manus ballivorum suorum in singulis comitatibus et tradatur per manus eorundem duobus militibus quos ad hoc assignavimus in singulis comitatibus, deferendum ad scaccarium nostrum Londoniis, ad liberandum ibidem thesaurario et camerariis nostris; et ideo tibi praecipimus quod ad mandatum omnium comitum et baronum et omnium aliorum qui de nobis tenent in capite, in ballia tua modo praedicto, sine dilatione distringas omnes milites et libere tenentes qui de eis tenent per servitium militare in balliva tua, ad reddendum ballivis suis de singulis feodis et wardis duas marcas ad praedictum auxilium nobis faciendum in terminis praedictis, et liberandum Johanni de Aure, et

Henrico de Meriet, quos ad hoc assignavimus in comitatu tuo sicut praedictum est, etc. Teste meipso apud Westmonasterium XVII. Julii, anno etc. XIX°.—(*Cal. Close Rolls*, 1234–7, p. 189.)

A. D. 1237. Writ for the Collection of the Thirtieth.

The appointment of four knights and a clerk to receive the assessment made on oath by the four men and reeve for their own township, is a new variety of expedient, to be compared with those given above (pp. 349, 351, 356, 357). The other points of importance in the writ are the direction for the election of the assessors of the township, the statement that the freeholders represented their villeins in their consent to the tax, and the provision for sparing the poor. The distinction between the villeins who, according to the lawyers, had no property of their own, and the poor, who had less than forty pence ' in bonis ', is worth remark.

Rex vicecomiti Kantiae salutem. Scias quod cum in octavis Sancti Hilarii anno regni nostri vicesimo primo, ad mandatum nostrum convenirent apud Westmonasterium archiepiscopi, episcopi, abbates, priores, comites et barones totius regni nostri, et tractatum haberent nobiscum de statu nostro et regni nostri, iidem archiepiscopi, episcopi, abbates, priores et clerici terras habentes quae ad ecclesias suas non pertinent, comites, barones, milites et liberi homines, pro se et suis villanis, nobis concesserunt in auxilium tricesimam partem omnium mobilium suorum apparentium, sicut ea habebunt in autumno in crastino Exaltationis Sanctae Crucis, anno regni nostri vicesimo primo, quando blada sua fuerint coadunata; videlicet de bladis, carucis, ovibus, vaccis, porcis, haraciis, equis caretariis assignatis ad waignagia, et aliis pecoribus et bonis. Exceptis bonis quae praedicti archiepiscopi, episcopi et aliae personae ecclesiasticae habent in ecclesiis parochialibus sive praebendis, et terris ad praebendas et ecclesias parochiales spectantibus; exceptis argento et auro, palefridis, summariis, dextrariis, runcinis, armis, utensilibus et vasis. Colligendam per manus dilectorum fidelium nostrorum Rogeri de Leburn, Simonis de Craye, Johannis de Adlington, per litteras Huward de Bikel' et Ricardi de Wokendon, qui jurabunt coram te,

quod negotium nostrum de auxilio nostro colligendo et assidendo pro posse suo bene et fideliter exsequentur per omnia, secundum suam conscientiam. Et ipsi quatuor milites et clericus praedictus eligi facient quatuor de legalioribus hominibus de singulis villis, quos statutis hundredis in comitatu tuo, certis die et loco coram eisdem ad mandatum eorum coram eis venire facies, qui jurabunt coram eisdem in praesentia ballivorum de singulis villis si interesse voluerint, quod auxilium illud fideliter assidebunt et rationabile pretium apponent omnibus rebus quae appretiandae fuerint, secundum communem et justam aestimationem et valorem, amore, gratia vel odio, vel alia occasione non impediente. Et postea particulas catallorum omnium et pretium ostendent quatuor militibus praedictis et clerico, et juxta provisionem dictorum militum et clerici pecuniam colligent, et eisdem militibus et clerico deferent et liberabunt per taillias et rotulos particulas continentes, reponendam in prioratu Sanctae Trinitatis Cantuariae; et si indigeant auxilio tuo circa districtionem faciendam in collectione dictae pecuniae, tu eis auxilium parabis. Archiepiscopi vero, episcopi, abbates, priores in terris suis et libertatibus in comitatu tuo, per quatuor legales milites suos vel liberos et legales homines si milites non habuerint, simili modo circa praedictam tricesimam assidendam et colligendam et liberandam quatuor praedictis militibus ad hoc attornatis, procedent. Et scias quod praedicti quatuor homines de singulis villis non jurabunt de propriis catallis suis, nec eisdem pretium apponent, sed alii quatuor homines de singulis villis ad hoc electi per milites praedictos jurabunt de catallis praedictorum priorum quatuor hominum, secundum formam praedictam. . . . (*Cal. Close Rolls*, 1234–7, p. 545.)

A. D. 1242. Record of a Debate in the Council of the Nation.

The following record was drawn up, as is stated by Matthew Paris, who inserts it in his History, that the answer of the barons to the king's demand for money might never be forgotten. We have in it the first detailed account of a dispute in the National Council as to the expediency of a war, or the granting of an aid. No doubt many discussions on the latter point had taken place during the previous years of the reign,

and had preceded the grants that purchased the reissue of the charters. On some former occasions, too, it would seem that the barons made it a condition of granting the tax, that it should be assessed and collected in a particular way. This appears, however, to be an early and very important instance of an aid being absolutely refused. Towards the end of the year the king exacted a scutage, 'fecit extorqueri;' possibly in accordance with the article of the charter of 1225 in which he asserted the right.

Cum dominus Eboracensis archiepiscopus et omnes episcopi Angliae, abbates, et priores per se vel per procuratores suos, necnon et omnes comites et fere omnes barones Angliae ad mandatum domini regis convenissent apud Westmonasterium die Martis proxima ante Purificationem beatae Mariae, A.D. 1242, regni Henrici regis 26^to^, audituri domini regis voluntatem et negotium pro quo ipsos mandaverat; et idem dominus rex transmittens ad eosdem dictum dominum Eboracensem et nobilem virum dominum comitem Ricardum et dominum Willelmum de Eboraco praepositum de Beverlaco, super voluntate domini regis et negotiis suis, scilicet eisdem expositis per eosdem solemnes nuncios, omnes magnates de regno suo rogasset de consilio ei dando et auxilio faciendo ad haereditatem suam et jura sua perquirenda in partibus transmarinis quae spectabant ad regnum suum Angliae; tandem dicti episcopi, abbates et priores, comites et barones, magno inter eos tractatu praehabito, in primis domino regi per praedictos magnates dederunt consilium, videlicet, quod dominus ipse rex exspectaret finem treugarum inter eum et regem Franciae initarum: et si forte dictus rex Franciae contra formam earundem treugarum aliquas fecisset interprisas, tunc dictus rex Angliae mitteret ad eum solemnes nuncios ad rogandum, monendum et inducendum ipsum regem Franciae, ut treugas initas teneret et interprisas emendaret, si quae per ipsum vel per suos factae essent. Quod si rex Franciae facere contradiceret, libenter ad hoc consilium apponerent pro posse suo de auxilio ei dando. Omnes ita unanimiter responderunt. Similiter postquam fuerat dominus eorum, multoties ad instantiam suam ei auxilium dederunt, videlicet tertiam decimam mobilium suorum, et postea quintam decimam et sextam decimam

et quadragesimam, carucagium, hydagium et plura scutagia, et postea unum magnum scutagium ad sororem suam Imperatricem maritandam. Postea vero nondum quatuor annis elapsis vel circiter, petiit ab eis iterum auxilium, et tandem cum magna precum instantia obtinuit tricesimam, quam ei concesserunt, tali scilicet conditione, quod illa exactio vel aliae praecedentes amplius non traherentur in consequentiam. Et inde fecit eis cartam suam. Et praeterea concessit eis tunc quod omnes libertates contentae in Magna Carta extunc in antea plenius tenerentur per totum regnum suum, et inde fecit eis quandam parvam cartam suam quam adhuc habent, in qua eaedem continentur. Praeterea dominus rex concessit eis de voluntate sua, et de consilio totius baronagii sui, quod tota pecunia ex dicta tricesima proveniens salvo deponeretur in castris domini regis sub custodia quatuor magnatum Angliae, scilicet comitis Warenniae et aliorum, per quorum visum et consilium pecunia illa expenderetur ad dicti regis et regni utilitatem, cum necesse esset. Et quia baronagium nescit nec audivit quod de dicta pecunia per visum vel consilium alicujus quatuor magnatum praedictorum aliquid expendatur, credunt firmiter et bene intelligunt quod dominus rex adhuc totam habet illam pecuniam integram, de qua nunc potest habere magnum auxilium. Praeterea bene sciunt quod post tempus illud tot habuit escaetas, archiepiscopatum Cantuariensem, et plures episcopatus Angliae ditiores, et terras comitum et baronum et militum de eo tenentium defunctorum, quod solummodo de illis escaetis debet ipse habere grandem pecuniae summam si bene custodiatur. Praeterea a tempore dictae tricesimae datae, non cessaverunt justitiarii itinerantes itinerare per omnes partes Angliae tam de placitis forestae quam de omnibus aliis placitis, ita quod omnes comitatus Angliae et omnia hundreda, civitates et burgi, et fere omnes villae graviter amerciantur ; unde solummodo de illo itinere habet dominus rex vel habere debet maximam summam pecuniae, si persolvatur et bene colligatur. Unde bene dicunt quod per illa amerciamenta et per alia auxilia prius data, omnes de regno ita gravantur et depauperantur quod parum aut nihil habent in bonis. Et quia dominus rex nunquam, post tricesimam datam, cartam suam de libertatibus tenuit, immo plus solito postea gravavit, et per aliam cartam eis concesserat quod exactiones hujusmodi non traherentur in consequentiam, responderunt eidem domino regi praecise,

quod nullum ad praesens ei facerent auxilium. Verumtamen quia dominus eorum est, sic se gerere poterit erga eos usque ad finem dictarum treugarum, quod tunc bonum apponent consilium pro posse suo. Et cum dicti magnates nuncii istud domino regi nunciassent responsum, redeuntes ad baronagium dixerunt, quod in parte sufficiens dederunt domino regi responsum ; sed dominus rex voluit scire ab eis quid facerent si rex Franciae ante finem praedictarum treugarum rumperet easdem treugas. Promiserunt etiam ex parte domini regis quod si ipse alicui magnatum Angliae injuriam fecisset, ipse illud emendaret per considerationem domini Petri de Sabaudia et aliorum de consilio suo. Ad quae magnates sic responderunt, videlicet, si rex Franciae rumperet treugas et nollet interprisas emendare, tunc apponent consilium sicut prius dixerant se apposituros in fine treugarum, dummodo constaret eis de veritate facti regis Franciae. Ad hoc quod ipsi promiserunt emendas ex parte domini regis super injuriis eis illatis, responderunt quod noluerunt ad praesens cum domino rege placitare ; et in concessione tricesimae adeo bene et fideliter promiserat eis dominus Willelmus de Rale ex parte domini regis, sicut modo ipsi faciunt : qualiter dominus rex tenuerit promissa sua videat ipse. Postea vero dominus rex examinavit plures singulariter ; quid ipsi concesserint universitas ignorat. —(*Matt. Paris*, iv. pp. 185–7.)

A. D. 1252. Writ for enforcing Watch and Ward and the Assize of Arms.

In this document the king brings together the two very ancient methods of ensuring peace and defence, of which several illustrations have been given already. Their connexion with constitutional history is now becoming less close, but it is important to observe the permanence of their character, and the antiquity as well as the elasticity of the machinery by which they are worked. Although not an essential part of the Constitution, they are ancient buttresses of the fabric, and their very permanence attests as well as sustains the corporate identity of the English nationality, which feudalism has disguised but has not been able to mutilate.

Henricus Dei gratia rex, etc. vicecomiti . . . salutem.

Sciatis quod ad pacem nostram firmiter observandam, provisum est de consilio nostro, quod vigiliae fiant in singulis civitatibus, burgis, et omnibus aliis villis comitatus tui, a die Ascensionis Domini usque ad festum Sancti Michaelis, scilicet in singulis civitatibus ad singulas portas per sex homines armis munitos, et in singulis burgis per duodecim homines; et in singulis villis integris per sex homines vel quatuor ad minus similiter armis munitos secundum numerum inhabitantium: et vigilent continuo per totam noctem ab occasu solis usque ad ortum, ita quod, si aliquis extraneus transitum per ipsos faciat, arrestent usque mane; et tunc, si fidelis sit, dimittatur, et si suspectus sit, vicecomiti liberetur, qui ipsum sine omni difficultate et dilatione recipiat et salvo custodiat; si vero hujusmodi extranei, transitum facientes, se non permiserint arrestari, tunc praedicti vigiles hutesium levent super eos undique, et eum insequantur cum tota villata et vicinis villatis, cum clamore et hutesio de villa in villam, donec capiantur; et tunc liberentur vicecomiti sicut praedictum est, ita quod nullus occasione hujusmodi arrestationis vel captionis extraneorum per vicecomitem, vel per ballivos suos occasionetur; et singulae civitates, burgi et villae praemuniantur ad singulas praedictas vigilias et sectas ita diligenter faciendum, ne defectum illorum graviter punire debeamus.

Provisum est etiam quod singuli vicecomites, una cum duobus militibus ad hoc specialiter assignatis, circumeant comitatus suos de hundredo in hundredum, et civitates et burgos, et convenire faciant coram eis in singulis hundredis, civitatibus et burgis, cives, burgenses, libere tenentes, villanos et alios aetatis quindecim annorum usque ad aetatem sexaginta annorum, et eosdem faciant omnes jurare ad arma, secundum quantitatem terrarum et catallorum suorum; scilicet, ad quindecim libratas terrae, unam loricam, capellum ferreum, gladium, cultellum et equum; ad decem libratas terrae unum habergetum, capellum ferreum, gladium et cultellum; ad centum solidatas terrae unum purpunctum, capellum ferreum, gladium, lanceam et cultellum; ad quadraginta solidatas terrae, et eo amplius ad centum solidatas terrae, gladium, arcum, sagittas et cultellum. Qui minus habent quam quadraginta solidatas terrae, jurati sint ad falces, gisarmas, cultellos et alia arma minuta. Ad catalla sexaginta marcarum, unam loricam, capellum ferreum, gladium, cultellum et equum: ad catalla quadraginta marcarum, unum haubercum, capellum

ferreum, gladium et cultellum ; ad catalla viginti marcarum, unum purpunctum, capellum ferreum, gladium et cultellum ; ad catalla novem marcarum, gladium, cultellum, arcum et sagittas ; ad catalla quadraginta solidorum et eo amplius usque ad decem marcas, falces, gisarmas et alia arma minuta. Omnes etiam illi qui possunt habere arcus et sagittas extra forestam, habeant ; qui vero in foresta, habeant arcus et pilatos.

In singulis civitatibus et burgis jurati ad arma sint coram majoribus civitatis, et praepositis et ballivis burgorum ubi non sunt majores ; in singulis vero villatis aliis constituatur unus constabularius vel duo secundum numerum inhabitantium et provisionem praedictorum ; in singulis vero hundredis constituatur unus capitalis constabularius, ad cujus mandatum omnes jurati ad arma de hundredis suis conveniant, et ei sint intendentes ad faciendum ea quae spectant ad conservationem pacis nostrae. Clamare etiam faciant singuli vicecomites per civitates et burgos et omnia mercata ballivorum suorum quod nulli conveniant ad turniandum vel burdandum, nec ad alias quascunque aventuras, nec etiam aliqui incedant armati nisi specialiter fuerunt ad custodiam pacis nostrae deputati ; et si aliqui fuerint inventi sive incedentes armati contra hanc provisionem nostram, arrestentur et vicecomiti liberentur : et si se non permiserint arrestari, tunc constabularii singulorum hundredorum et villatarum, et alii quicunque sint, hutesium levent super eos undique, et cum vicinis villis, et de villa in villam ipsos insequantur donec capiantur et vicecomiti liberentur, sicut praedictum est ; quoties autem contigerit hutesium levari super quoscunque perturbatores pacis nostrae, praedones et malefactores in parcis vel vivariis, statim propter eos fiat hutesium, et ipsos insequantur donec capiantur, et vicecomiti liberentur, sicut de aliis praedictum est ; et omnes vicecomites et eorum ballivi, constabularii, jurati ad arma, burgenses, libere tenentes et villani, talem sectam faciant propter praedictos malefactores, ne ipsi malefactores evadant, et ne, si pro eorum defectu evadant, hii in quibus defectus inventus fuerit graviter puniri debeant, et sic per consilium nostrum puniantur, quod poena illorum aliis metum incutiat, et auferat materiam delinquendi ; suspectos autem de die per quascunque arrestationes recipiant arrestatos, vicecomites sine dilatione et difficultate salvo custodiant, donec per legem terrae deliberentur. Et ideo tibi praecipimus, quod sicut corpus

tuum et omnia tua diligis, una cum dilectis et fidelibus nostris Henrico filio Bernardi, Petro de Goldintuna, quos tibi ad hoc assignavimus, omnia praedicta sub forma praescripta cum diligentia exsequaris, ne pro defectu tui inde et praedictorum Henrici et Petri ad te et ad ipsos nos graviter capere debeamus.

Teste archiepiscopo Eboracensi apud Westmonasterium XX^mo^ die Maii, anno regni nostri tricesimo sexto.—(*Foedera*, i. 281.)

A. D. 1254. Writ of Summons for two Knights of the Shire to grant an Aid.

This is an important landmark in the parliamentary history of England ; it is a distinct summons to the counties, through the sheriffs, to return two knights each, for the purpose of granting an aid. The king combines with this a direction to the sheriffs to compel all tenants in chief, who hold lands worth twenty pounds a year, to present themselves in person for military service. It is to be observed that, in the order to return the two knights, they are said to be chosen by the counties, that is the county courts, no restriction of the power of choice to tenants in chief, or to knights, being specified. This writ is sufficient to show that no such restriction even at this early period existed. The aid asked for is a national and not a feudal grant ; and although the force spoken of in the early part of the writ is levied on the feudal principle, the assembly summoned in the latter part of it is of a different character altogether.

Forma directa magnatibus et vicecomitibus Angliae.

Rex Vicecomiti Bedeford. et Bukingeham., salutem. Cum comites et barones et ceteri magnates regni nostri nobis firmiter promiserint, quod erunt Londoniis a die Paschae proximo futuro in tres septimanas cum equis et armis parati et bene muniti ad tendendum sine ulla dilatione versus Portesmuth, ad transfretandum ad nos in Vasconiam contra regem Castellae qui terram nostram Vasconiae in manu forti in aestate proximo futura hostiliter est ingressurus, et tibi mandaverimus quod omnes illos de ballia tua qui tenent xx. libratas terrae de nobis in capite, vel de aliis qui sunt infra aetatem et in custodia

nostra, ad idem distringes; tibi districte praecipimus, quod praeter omnes praedictos venire facias coram consilio nostro apud Westmonasterium in quindena Paschae proximo futuri, quatuor legales et discretos milites de comitatibus praedictis quos iidem comitatus ad hoc elegerint, vice omnium et singulorum eorundem comitatuum, videlicet duos de uno comitatu et duos de alio, ad providendum, una cum militibus aliorum comitatuum quos ad eundem diem vocari fecimus, quale auxilium nobis in tanta necessitate impendere voluerint. Et tu ipse militibus et aliis de comitatibus praedictis necessitatem nostram et tam urgens negotium nostrum diligenter exponas, et eos ad competens auxilium nobis ad praesens impendendum efficaciter inducas; ita quod praedicti quatuor milites praefato consilio nostro ad praedictum terminum praecise respondere possint super praedicto auxilio pro singulis comitatuum praedictorum. Firmiter etiam tibi praecipimus quod omnia debita quae nobis a retro sunt in baillia tua et solvi debuerunt ad scaccarium nostrum ante Pascha jam instans, vel solvi debent ad scaccarium ejusdem Paschae, habeas ad idem scaccarium in quindena praedicti Paschae, sciturus quod nisi praedicta debita tunc ibidem habueris non solum corpus tuum arrestari faciemus, sed debita illa de terris et tenementis tuis levari faciemus ad damnum tuum non modicum. T. A. Regina et R. comite Cornubiae apud Windlesoram XI. die Februarii.— (*Report on the Dignity of a Peer*, App. i. p. 13.)

A. D. 1255. Charter of Henry III to Oxford.

This charter is not given as a specimen of the ordinary borough charters granted by Henry III: on the contrary, it is distinguished from them by the provisions touching the University. It may, however, be regarded as exhibiting the increased minuteness and distinctness of detail that was now being introduced into municipal institutions.

Rex omnibus, etc., salutem. Sciatis quod ad pacem et tranquillitatem necnon et utilitatem universitatis scholarium Oxoniae providimus et concessimus quod quatuor aldermanni fiant in Oxonia, et octo de discretioribus et legalioribus burgensibus ejusdem villae associentur ipsis aldermannis, qui omnes jurent nobis fidelitatem, et sint assidentes et consulentes majori et ballivis nostris Oxoniae ad pacem nostram conser-

vandam, ad assisas praedictae villae custodiendas, et ad investigandum malefactores et perturbatores pacis nostrae, et vagabundos de nocte, et receptatores latronum et malefactorum, et corporale praestent sacramentum quod omnia praedicta fideliter observabunt. In qualibet autem parochia villae Oxoniae sint duo homines electi de legalioribus parochianis et jurati quod in qualibet quindena inquirent diligenter, ne quis suspectus hospitetur in parochia, et si aliquis receptaverit aliquem per tres noctes in domo sua, respondeat pro eo. Nullus etiam regratarius emat victualia in villa Oxoniae, vel extra versus villam venientia, nec aliquid emat nec iterum vendat ante horam nonam, et si fecerit amercietur, et rem emptam amittat. Si laicus inferat clerico gravem vel enormem laesionem, statim capiatur, et si magna sit laesio, incarceretur in castro Oxoniae, et ibi detineatur quousque clerico satisfiat, et hoc arbitrio cancellarii et universitatis Oxoniae ; si clericus protervus fuerit, si minor vel levis sit injuria, incarceretur in villa. Si clericus inferat gravem vel enormem laesionem laico, incarceretur in praedicto castro quousque cancellarius praedictae universitatis ipsum postulaverit ; si minor vel levis sit injuria, incarceretur in carcere villae quousque liberetur per cancellarium. Pistores et braciatores Oxoniae in primo transgressu suo non puniantur, sed in secundo amittant panem, et in tertio transgressu habeant judicium de pillorio. Quilibet pistor habeat sigillum suum et signet panem suum, per quod possit cognosci cujus panis sit. Quicunque de villa Oxoniae braciaverit ad vendendum, exponat signum suum, alioquin amittat cervisiam. Vina Oxoniae communiter vendantur et indifferenter tam clericis quam laicis ex quo inbrochiata fuerint. Temptatio panis fiat bis in anno, videlicet in quindena post festum Sancti Michaelis, et circa festum Sanctae Mariae in Martio, et assisa cervisiae fiat eisdem terminis, secundum valorem bladi et brasii. Et quotiescunque debeat fieri temptatio panis et cervisiae, intersit cancellarius praedictae universitatis vel aliqui ex parte sua ad hoc deputati, si super hoc requisiti interesse voluerint. Quod si non intersint nec super hoc requisiti fuerint, nihil valeat temptatio praedicta. In cujus etc. T. R. apud Wodestok, XVIII. die Julii.—(*Foedera*, i. 323. Ogle, *Royal Letters addressed to Oxford*, p. 328.)

A. D. 1256. Charter of Henry III to Southampton.

This document illustrates the character of the normal privileges granted by Henry III to English towns. It will be seen that he interferes but little with the internal government of the town. The burgesses obtain from him various exemptions and privileges, some in the judicial and others in the fiscal sphere. The most important, the right to elect coroners, is nothing new; Lincoln obtained it in the reign of John (*supra*, p. 308). But the Returnus Brevium seems to appear first in the charters of Henry III.

Henricus Dei gratia rex Angliae, etc., salutem. Sciatis nos concessisse et hac carta nostra confirmasse, pro nobis et heredibus nostris, burgensibus nostris de Suthampton quod illi et eorum heredes burgenses ejusdem villae imperpetuum, habeant returnum omnium brevium nostrorum villam nostram de Suthampton et libertatem ejusdem villae tangentium, etc. Et quod ballivi ipsius villae respondere possint per manum suam propriam ad scaccarium nostrum de omnibus debitis suis et summonicionibus ejusdem scaccarii predictam villam de Suthampton contingentibus. Ita quod nullus vicecomes aut alius ballivus vel minister noster de cetero se intromittat de summonicionibus hujusmodi aut aliquibus attachiamentis vel districtionibus faciendis in predicta villa nisi per defectum dictorum burgensium aut ballivorum ejusdem villae. Et quod iidem burgenses de se ipsis eligere possint et creare coronatores in predicta villa ad attachiamenta placitorum coronae nostrae infra predictam villam et libertatem ejusdem villae emergentium facienda; et respondeant coram justitiariis nostris itinerantibus in partibus illis de attachiamentis per ipsos factis et aliis ad officium coronatoris pertinentibus sicut alii coronatores respondere debent et solent. Concessimus etiam eisdem burgensibus quod non implacitentur extra burgum suum de aliquibus tenementis vel catallis suis quae habuerint infra libertatem villae predictae, exceptis transgressionibus si quas nobis vel heredibus nostris ab eis fieri contigerit. Et quod nullum breve currat infra libertatem predictae villae nisi breve de recto, breve de nova disseisina et breve de dote, unde nihil fiet [nisi] ut consuetum est. Et quod per totam terram et potestatem nostram habeant et teneant

omnes libertates et liberas consuetudines suas hucusque obtentas et usitatas adeo quiete et integre sicut cives Wintonienses vel alii de regno et potestate nostra libertates suas melius et liberius habent et tenent. Quare volumus, etc. Et prohibemus super forisfacturam decem librarum ne quis eos contra hanc libertatem et concessionem nostram molestare vel inquietare presumat. Hiis testibus, etc.—(Gidden, *Charters of Southampton*, p. 14.)

A. D. 1258. Documents relating to the Provisions of Oxford.

The particular train of events which led to the crisis marked in English history by the Provisions of Oxford, and which helped, in conjunction with other causes of disturbance, to produce the War of the Barons, began as early as 1252. In that year Innocent IV was treating with the king for the bestowal of the kingdom of Sicily on Richard Earl of Cornwall, and sent Albert the papal notary to the king with full powers to conclude the business. After a long negotiation, Edmund, the second son of Henry, received the cession of the kingdom from Albert, at Vendôme, March 6, 1254; and this was confirmed by the pope at Assisi, on May 2. After the death of Innocent, the settlement was renewed by Alexander IV at Naples, April 9, 1255. Henry seems to have hung back at first from accepting the offer, and to have pleaded a vow of crusade, from which he was, however, absolved under papal orders; but on the 18th of October, 1255, he directed John Maunsell to affix his seal to the formal act of acceptance. Immediately after this the pecuniary difficulties of the king in connexion with Sicily begin: the pope waged war with his own treasures, but bound Henry to himself as debtor in respect of the expenditure, and the king allowed the Bishop of Hereford, his envoy, to make him responsible for the outlay. In November 1256 Alexander IV commissioned the Archbishop of Messina as his ambassador to Henry; and on Mid-Lent Sunday 1257 in the chapter-house at Westminster the Archbishop stated the case

to the great council of the nation. At this time the debt to the pope reached 135,000 marks sterling. The demand of an aid was met with indignant remonstrances; but under united papal and royal pressure, 52,000 marks were wrung from the clergy. The next year the like demand was met more resolutely. The Parliament met at London after Hoke-tide, April 9th, and sat until the 5th of May, in angry debate on all the many existing causes of discontent. The result was an agreement on the part of the king to place the execution of the necessary reforms in the hands of a body of twenty-four counsellors, to be chosen in a parliament at Oxford on the feast of S. Barnabas, June 11, half by himself and half by the barons. To the determinations of this body he bound himself to submit. (Nos. I and II.) The parliament of Oxford met, and the barons presented a long petition stating the reforms they desired. (No. III.) The council of twenty-four was elected, and drew up a body of preliminary articles, which are commonly known as the Provisions of Oxford. (No. IV.) Under this constitution a council of fifteen was chosen, by four out of the twenty-four, to advise the king on all points; another body of twenty-four was appointed to treat especially of aids; and a third, of twelve members, was chosen by the barons to represent the community in three annual parliaments. Further reforms were to be reported before the following Christmas. In the meantime the king took all the oaths that were required of him, and published in Latin, French, and English his adhesion to the Provisions, on the 18th of October. (No. V.) The year ended, and the counsellors had not completed their labours or published the further reforms, to which it seems certain that the king had sworn implicitly beforehand. In October 1259 however, under the urgent threats of Edward and others of the barons, they produced at Westminster a second series of provisions, based upon the petition of the barons, but by no means answering their expectations. A quarrel between the Earls of

Leicester and Gloucester, the former of whom was supported by Edward, and the latter by Henry, occupied great part of 1260, the king spending some time in France, and being to all intents and purposes superseded by the council. The next year Henry, having obtained absolution from his oath, repudiated the Provisions, and war seemed imminent. Henry's policy varied between stubborn resistance and false submission. The year 1263 was one of civil war. At last both parties agreed to accept the arbitration of S. Lewis, December 16, 1263. S. Lewis gave sentence in favour of Henry, on the 23rd of January, 1264, and the Provisions of Oxford were annulled. The barons, as soon as they learned that the award was unfavourable, renewed hostilities, and in the battle of Lewes, May 13, the king and Edward were captured, the government falling at once into the hands of Simon de Montfort.

No. I. *The King's consent to a project of Reform.*

Rex omnibus, etc. Cum pro negotiis nostris arduis nos et regnum nostrum contingentibus, proceres et fideles regni nostri ad nos Londonias in quindena Paschae proximo praeteritae faceremus convocari ; et cum de negotiis supradictis et maxime de prosecutione negotii Siciliae diligenter cum eisdem tractaremus ; ac ipsi nobis responderint quod si statum regni nostri per consilium fidelium nostrorum rectificandum duxerimus, et dominus papa conditiones circa factum Siciliae appositas melioraverit, per quod negotium illud prosequi possemus cum effectu ; ipsi diligentiam fideliter apponent erga communitatem regni nostri quod nobis commune auxilium ad hoc praestetur ; nos eis concessimus quod infra festum Natalis Domini proximo futurum per consilium proborum et fidelium hominum nostrorum regni Angliae, una cum consilio legati domini papae, si in Anglia medio tempore venerit, statum regni nostri ordinabimus et ordinationem illam firmiter observabimus : et ad hoc fideliter observandum, supponimus nos cohercioni domini papae, ut nos ad hoc per censuram ecclesiasticam, prout expedire viderit, valeat arctare : protestamur etiam quod Edwardus filius noster primogenitus, praestito sacramento corporali, per litteras suas concessit quod omnia superius expressa, quantum in ipso est, fideliter et inviolabiliter obser-

vabit et in perpetuum observari procurabit. In cujus etc. Hiis testibus, Edwardo filio nostro primogenito ; Galfrido de Lezignan, Willelmo de Valentia, fratribus nostris ; Petro de Sabaudia, Johanne de Plessetis comite Warrewici, Johanne Maunsell thesaurario Eboracensi, Henrico de Wingeham decano Sancti Martini, London. ; Petro de Rivallis, Guidone de Rocheford, Roberto Walerand, praesentibus et multis aliis comitibus, baronibus regni nostri. Datum apud Westmonasterium, secundo die Maii.—(*Foedera*, i. 370.)

No. II. *The King's consent to the Election of the Twenty-four.*

Rex omnibus, etc. Noveritis nos concessisse proceribus et magnatibus regni nostri, juramento in animam nostram per Robertum Walerand praestito, quod per xii. fideles de concilio nostro jam electos et per alios xii. fideles nostros, electos ex parte procerum ipsorum, qui apud Oxoniam a festo Pentecostes proximo futuro in unum mensem convenient, ordinetur, rectificetur et reformetur status regni nostri secundum quod melius viderint expedire ad honorem Dei et ad fidem nostram ac regni nostri utilitatem. Et si forte aliqui electorum ex parte nostra absentes fuerint, liceat illis qui praesentes fuerint alios substituere loco absentium ; et similiter fiat ex parte praedictorum procerum et fidelium nostrorum. Et quicquid per viginti quatuor utrimque electos et super hoc juratos, vel majorem partem eorum, circa hoc ordinatum fuerit inviolabiliter observabimus ; volentes et firmiter ex nunc praecipientes quod ab omnibus inviolabiliter observetur eorum ordinatio. Et securitatem omnimodam quam ipsi vel major pars eorum ad hujus rei observationem providerint, vel providerit, eis sine qualibet contradictione, plene faciemus et fieri procurabimus. Protestamur etiam quod Edwardus filius noster primogenitus, praestito sacramento corporali, per litteras suas concessit quod omnia superius expressa et concessa quantum in ipso est fideliter et inviolabiliter observabit et procurabit in perpetuum observari. Promiserunt etiam comites et barones memorati quod, expletis negotiis superius tactis, bona fide laborabunt ad hoc quod auxilium nobis commune praestetur a communitate regni nostri.

In cujus etc. Hiis testibus, *ut supra.*

Datum *ut supra.*—(*Foedera*, i. 371.)

No. III. *Petition of the Barons at the Parliament of Oxford.*

This important schedule of grievances is an exemplification of the way in which the provisions of the Great Charter were kept, and also of the progress of the views of men on internal reform since the date of the Charter. Few of the details are in themselves of material importance in relation to the constitution, but they supply a commentary on the Charter in its legal articles which is of interest to the student of social life and manners. The constitutional views of the period may be regarded as embodied in the elective council, rather than in its distinct acts. In point of fact, although the name of the Provisions of Oxford belonged properly to the first articles there promulgated, and indirectly also to those issued at Westminster in October 1259, the leading idea, probably, understood by the name was the maintenance of the new form of government. Henry might have submitted to any of the details, but not to be permanently superseded by the elective council.

1. Petunt comites et barones de successionibus, quod filius natus et primogenitus vel filia post patrem libere ingrediatur possessionem patris, ita quod capitalis dominus debet habere simplicem seisinam per unum ex ballivis suis, ita quod nihil capiatur per praedictum ballivum de exitibus terrae vel redditibus ; quando vero haeres fuerit plenae aetatis et prosecutus jus suum fuerit, ad faciendum domino suo quod facere debet : et ita fiat de fratre vel sorore et de avunculo seisito, si obierit sine haerede, ad nepotem suum filium primogeniti ; et si frater non habeatur, ad liberos fratris vel sororis, et sic deinceps, per rationabile relevium et homagium et relevia domino feodi facienda ; ita quod dominus feodi medio tempore nullum faciat vastum vel exilium, venditionem vel alienationem, de domibus vel boscis, vivariis, parcis sive hominibus villenagium tenentibus. Quod si hoc fecerit et inde convictus fuerit, secundum quantitatem delicti puniatur. Et omnia damna quae praedictus haeres ea occasione habuerit, sine dilatione restituet. Et cum haeres fecerit domino regi rationabile relevium cum fuerit plenae aetatis, domina regina inde petit aurum se-

cundum aestimationem decimae partis, et videtur quod non debet habere nisi de fine.

2. Item petunt remedium quod ubi aliquis infra aetatem existens tenet plures terras de pluribus et diversis dominis, et idem teneat aliquam quantitatem terrae de domino rege in capite per servitium militare vel sergantiam, occasione cujus servitii dominus rex habet custodiam omnium terrarum et tenementorum praedictorum haeredis, de quocumque tenuerit ; si dominus rex eat in exercitu, licet teneat in manu sua plura feoda militum de feodis aliorum, sicut praedictum est, nihilominus petit totum servitium a praedictis dominis feodi qui de eo tenent in capite, nec eis vult quicquam allocare ex hoc quod tenet custodiam praedictorum feodorum in manu sua.

3. Item petunt barones habere custodiam terrarum et tenementorum suorum qui sunt de feodis suis, et haeredum usque ad legitimam aetatem ipsorum ; ita quod dominus rex habeat maritagium et custodiam corporis penes se : et hoc petunt de jure communi.

4. Item petunt quod castra regis committantur custodienda ad fideles suos et de regno Angliae natos, ob plures casus qui poterunt in regno Angliae evenire vel emergere.

5. Item petunt quod castra regis quae sunt supra portus maris, ubi navigia evenire possunt, committantur fidelibus hominibus de regno Angliae natis, propter pericula plurima evidentia quae emergere possunt si aliis committerentur.

6. Item petunt de maritagiis domino regi pertinentibus, quod non maritentur ubi disparagentur, videlicet hominibus qui non sunt de natione regni Angliae.

7. Item petunt remedium quod bosci et terrae infra metas forestae non existentes, qui per ambulationem proborum hominum, et per quindecimam partem omnium bonorum hominum Angliae domino regi datam, deafforestari fuerunt, per voluntatem suam reafforestavit.

8. Item petunt de assartis factis infra metas forestae de terris suis propriis et tenementorum suorum de novo arentatis, unde dominus rex vendicat sibi custodiam haeredum talium, et nihilominus vendicat servitium omne inde debitum.

9. Item petunt remedium quod forestae deafforestatae per cartam regis et per fidem eidem per communitatem totius regni factam, ita quod quisque ubique possit libere fugare, dominus rex de voluntate sua pluribus dedit de praedicta libertate warennas, quae sunt ad nocumentum praedictae libertatis concessae.

10. Item petunt remedium, quod religiosi non intrent in feodum comitum et baronum et aliorum sine voluntate eorum, per quod amittunt in perpetuum custodias, maritagia, relevia et eschaetas.

11. Item petunt remedium de abbatiis et prioratibus fundatis de feodis comitum et baronum, unde dominus rex ad vacationem dictarum domorum inde petit custodias, ita quod non possunt eligere sine voluntate domini regis : et hoc est in praejudicium comitum et baronum, cum servitia inde debita domino regi sustineant ut medii.

12. Item petunt remedium de hoc, quod dominus rex aliquando pluribus dat per cartam suam aliena jura, dicens illa esse eschaeta sua, unde tales dicunt quod non debent nec possunt respondere sine domino rege. Et cum justitiarii hoc ostendunt domino regi, nihil justitiae in hac parte factum est.

13. Item petunt remedium, quod cum ipsi comites et barones habeant terras suas in pluribus comitatibus, justitiarii domini regis sint itinerantes uno tempore in omnibus comitatibus praedictis, ad placitandum de omnibus placitis, et de foresta simul et semel, et nisi ipsi comites et barones compareant coram illis primo die communis summonitionis, amerciabuntur ad voluntatem domini regis pro sua absentia, nisi habeant breve domini regis de acquietantia.

14. Item praedicti justitiarii capiunt finem gravem pro pulchro placitando de quolibet comitatu, ne occasionentur ; et non debent emere jura, et de aliis pluribus occasionibus de placitis coronae. Et si villatae quatuor propinquiores ad mortem hominis interfecti vel submersi non accesserint, omnes de aetate xii. annorum praedictarum iv. villatarum graviter amerciabuntur.

15. Item petunt quod nullus possit firmare castrum supra portum maris, vel supra insulam infra inclusam, nisi sit de consensu concilii totius regni Angliae : quia plura pericula possent inde evenire.

16. Item de vicecomitum firmis et aliorum ballivorum liberorum qui capiunt comitatus et alias ballivas ad firmam, qui etiam habent comitatus suos ad tam altam firmam quod non possunt dictam firmam inde levare ; nec amerciant homines secundum quantitatem delicti, sed ad redemptionem ultra vires eos arctant.

17. Insuper dicunt quod vicecomites ad duos turnos suos per annum demandant personalem adventum comitum et baronum

tenentium baronias suas in diversis locis et comitatibus ; et si non venerint ibi personaliter, amerciant ipsos sine consideratione et judicio ; et hoc quia quilibet vicecomes dicit, quod in dictis turnis est justitiarius quoad diem.

18. Item ubi aliquis habet aliquam partem terrae, scilicet duas acras terrae vel plus vel minus, sine mansione eidem adjacente, nisi ratione illius terrae ad turnos suos veniat, tunc pro voluntate sua amerciabitur.

19. Item si aliqua justitiaria mandata fuerit specialiter coram aliquo justitiario assignato, vel de nova disseisina, vel de morte antecessoris, vicecomites clamare faciunt in mercatis, quod omnes milites et libere tenentes patriae veniant ad certum diem et locum audituri et facturi praeceptum regis, et cum ibi non venerint, eos amerciant pro voluntate sua.

20. Item petunt remedium de hoc quod si aliquis comes vel baro, vel ballivus, vel aliquis alius qui libertatem habeat vel in civitate vel in villata, ceperit aliquem malefactorem et illum obtulerit vicecomiti, vel suo ballivo, ad incarcerandum vel custodiendum quousque de eo fiat judicium, vicecomes recusat admittere prisonem illum, nisi is qui ipsum ceperit finem faciat per sic quod ipsum recipiat.

21. Item de eo quod multi homines de diversis partibus regni propter caristiam temporis venientes, et per diversas provincias transitum facientes, fame et inedia moriuntur, et tunc per legem terrae visum factum est per coronatores, et quatuor villatas vicinas, et cum praedictae villatae de ita mortuis nihil sciunt nec dicunt, nisi quod casu praedicto moriuntur, et quia nihil de huthesia Englescheria assignatur, amerciatur patria coram justitiariis tanquam de murdro.

22. Item de prisis domini regis in nundinis et mercatis et civitatibus, videlicet quod hi qui assignati fuerint ad praedictas prisas capiendas, eas rationabiliter capiant, scilicet quantum pertinet ad praedictos usus domini regis ; unde conqueruntur, quod dicti captores capiunt in duplo vel in triplo plus quam cedit ad usus domini regis : capiunt etiam totum illud superfluum ad opus suum, vel ad opus amicorum suorum retinent, et partem inde aliquam vendunt.

23. Item conqueruntur quod dominus rex de prisis nullam fere facit pacationem, ita quod plures mercatores de regno Angliae ultra modum depauperentur, et alii mercatores extranei ea occasione subtrahunt se de veniendo in terram istam cum suis mercibus, unde terra magnam incurrit jacturam.

24. Item petunt remedium de sectis de novo levatis in regno tam ad comitatus et hundreda, quam ad curias libertatis, quae nunquam aliquo tempore fieri consueverunt.

25. Item petunt remedium de hoc, quod Judaei aliquando debita sua et terras eis invadiatas [tradunt] magnatibus et potentioribus regni, qui terras minorum ingrediuntur ea occasione : et licet ipsi qui debitum debent, parati sint ad solvendum praedictum debitum cum usuris, praefati magnates negotium prorogant, ut praedictae terrae et tenementa aliquo modo sibi remanere possint, dicentes quod sine Judaeo cui debebatur debitum, nihil possunt nec sciunt facere : et semper differunt solutionem dictae pecuniae, ita quod occasione mortis vel alicujus alterius casus, evidens periculum et manifesta patet imminere exhaeredatio his quorum praedicta tenementa fuerunt.

26. Item petunt remedium de Christianis usurariis, ut de Caursinis qui degunt Londoniis, cum Christianae religioni contrarium videatur manutenere vel fovere aliquos hujusmodi, saltem ex quo nomen Christiani induerunt. Et praeterea per eorum usuras plures depauperantur et destruuntur ; et etiam plures mercandias venientes versus Londonias, tam per aquam quam per terram, occupant et emunt, ad magnum detrimentum mercatorum et omnium praedictae civitatis, et ad magnum damnum domini regis, quia cum dominus rex talliat praedictam civitatem, in nullo participant nec participare volunt cum praedictis civibus in tallagiis et aliis domino regi faciendis.

27. Item petunt remedium de maritagiis alienatis, videlicet in tali casu ; si aliquis dederit alicui unam carucatam terrae in maritagio cum filia vel sorore habendam et tenendam eis et haeredibus de praedictis filia vel sorore exeuntibus, ita videlicet quod, si praedicta filia vel soror obierit sine haerede de corpore suo, terra cum pertinentiis integre revertatur ad ipsum qui terram dederit in maritagium vel ad haeredes suos ; et cum praedictum donum non sit absolutum sed conditionale, tamen mulieres post mortem virorum suorum in viduitate sua dant vel vendunt praedicta maritagia et infeodant pro voluntate sua, licet haeredes de corpore suo non habuerint, nec hujusmodi feofamenta hucusque aliquatenus fuerunt revocata. Unde petunt quod ex aequitate juris, ratione praedictae conditionis, sive per breve de ingressu, vel aliquo alio modo competenti provideatur remedium ad revocandum hujusmodi

feofamenta, et quod in tali casu procedatur ad judicium pro ipso petente.

28. Item petunt remedium de hoc, quod dominus rex large facit militibus de regno suo acquietantiam, ne in assisis ponantur, juramentis vel recognitionibus, propter quod in pluribus comitatibus pro defectu militum non potest capi aliqua magna assisa, et ita remanent hujusmodi loquelae, ita quod petentes nunquam justitiam consequuntur.

29. Item in pluribus comitatibus usitatum est, quod si aliquis defert breve de recto directum proximo capitali domino feodi, et petens probaverit defaltam curiae ipsius capitalis domini pro consuetudine regni, et post eat ad comitatum et petat quod adversarius suus summoneatur quod sit ad proximum comitatum, veniet superior capitalis dominus feodi ejusdem et petit suam curiam inde et habebit : et, probata defalta curiae, veniet adhuc alter superior dominus feodi illius et petit similiter curiam suam et habebit : et sic de singulis capitalibus dominis quotquot fuerint superiores. Quod est aperte contra justitiam, cum in brevi contineatur quod capitalis dominus feodi cui breve dirigitur plenum rectum teneat quod vicecomes faciat, etc.—(*Annals of Burton*, 439–443.)

No. IV. *Provisions of Oxford.*

Provisio facta apud Oxoniam.

Provisum est quod de quolibet comitatu eligantur quatuor discreti et legales milites, qui, quolibet die ubi tenetur comitatus, conveniant ad audiendum omnes querelas de quibuscunque transgressionibus et injuriis quibuscunque personis illatis per vicecomites, ballivos, seu quoscunque alios, et ad faciendum tachiamenta quae ad dictas querelas pertinent usque ad primum adventum capitalis justitiarii in partes illas. Ita quod sufficientes capiant plegios a conquerente de prosequendo, et de eo de quo queritur, veniendo et juri parendo coram praefato justitiario in primo adventu suo. Et quod praedicti quatuor milites inrotulari faciant omnes praedictas querelas cum suis attachiamentis ordinate et serie, scilicet de quolibet hundredo separatim et per se. Ita quod praefatus justitiarius in primo adventu suo possit audire et terminare praefatas querelas sigillatim de quolibet hundredo. Et scire faciant vicecomiti quod venire faciant coram praefato justitiario in proximo adventu suo ad dies et loca quae eis scire faciet, omnes hundredarios et ballivos suos ; ita quod quilibet hundredarius venire

faciat omnes conquerentes et defendentes de balliva sua, successive, secundum quod praefatus justitiarius duxerit de praedicto hundredo placitare ; et tot et tales tam milites quam alios liberos et legales homines de balliva sua per quos rei veritas melius convinci poterit, ita quod omnes simul et semel non vexentur, sed tot veniant quot possunt una die placitari et terminari.

Idem provisum est quod nullus miles de praedictis comitatibus, occasione acquietantiae quod non ponatur in juratis vel assisis, per cartam domini regis deferatur, nec quietus sit quoad provisionem istam sic factam pro communi utilitate totius regni.

Electi ex parte domini Regis.

Dominus Londoniensis episcopus, dominus Wintoniensis electus, dominus H. filius regis Alemanniae, dominus J. comes Warennae ; dominus Guido de Lysinan, dominus W. de Valentia, dominus J. Comes Warewici, dominus Johannes Mansel, frater J. de Derlington, Abbas Westmonasterii, dominus H. de Hengham.

Electi ex parte comitum et baronum.

Dominus Wygornensis episcopus, dominus Symon comes Leycestrensis, dominus Ricardus comes Gloverniae, dominus Humfridus comes Herefordiae, dominus Rogerus Marescallus, dominus Rogerus de Mortuo Mari, dominus J. filius Galfridi, dominus Hugo le Bigot, dominus Ricardus de Gray, dominus W. Bardulf, dominus P. de Monteforti, dominus Hugo Dispensarius.

Et si contingat aliquem istorum necessitate interesse non posse, reliqui istorum eligant quem voluerint, scilicet alium necessarium loco absentis ad istud negotium prosequendum.

Ceo jura le commun de Engleterre a Oxeneford.

Nus, tels et tels, fesum a saver a tute genz, ke nus avum jure sur seintes Evangeles, e sumus tenuz ensemble par tel serment, e promettuns en bone fei, ke chescun de nus e tuz ensemble nus entre eiderums, e nus e les nos cuntre tute genz, dreit fesant, e rens pernant ke nus ne purrum sanz mes fere, salve la fei le rei e de la corune. E promettuns sur meime le serment, ke nul de nus ja ren ne prendra de tere ne de moeble par que cest serment purra estre desturbe, u en nule ren empeyre. E si nul fet encontre ceo, nus le tendrums a enemi mortel.

Ceo est le serment a vint e quatre.

Chescun jura sur seintes Evangeles, ke il al honur de Deu, e a la fei le rei, e al profit del reaume, ordenèra e tretera ovekes les avant dit jures sur le refurmement e le amendement del estat del reaume. E ke ne lerra pur dun, ne pur promesse, pur amur, ne pur hange, ne pur pour de nulli, ne pur gain, ne pur perte, ke leaument ne face solum la tenur de la lettre, ke le rei ad sur ceo done et sun fez ensement.

Ceo jura le haute justice de Engletere.

Il jure ke ben et leaument a sun poer fra ceo ke apent a la justicerie de dreiture tenir, a tute genz al prou le rei e del reaume, solum la purveaunce fete et a fere par les vint et quatre, et par le cunseil le rei e les hauz humes de la tere, ki li jurrunt en cestes choses a aider e a meintenir.

Ceo jura le Chanceler de Engletere.

Ke il ne enselera nul bref fors bref de curs sanz le commandement le rei, e de sun cunseil ke serra present : ne enselera dun de grant garde, ne de grant . . . ne de eschaetes, sanz le assentement del grant cunseil u de la greinure partie : ne ke il ne enselera ren ke seit encontre le ordinement, ke est fet et serra a fere par les vint et quatre, u par la greinure partie. Ne ke il ne prendra nul loer autrement ke il nest divise as autres. E lem li baudra un companiun en la furme ke le cunseil purverra.

Ceo est le serment ke les gardens des chastels firent.

Ke il les chastels le rei leaument e en bone fei garderunt al oes le rei e de ses heyrs. E ke eus les rendrunt al rei u a ses heyrs et a nul autre, e par sun cunseil et en nule autre manere ; ceo est a saver, par prodes homes de la tere esluz a sun cunseil, u par la greinure partie. E ceste furme par escrit dure deske a duze ans. E de ilokes en avant par cest establement et cest serment ne seint constreint, ke franchement ne les pussent rendre al rei u a ses heirs.

Ceo sunt ceus ke sunt jurez del cunseil le rei.

Archiepiscopus Cantuariensis, episcopus Wygornensis, comes Leycestrensis, comes Glovernensis, comes Mariscallus, Petrus de Sabaudia, comes Albemarliae, comes Warewik, comes Herefordensis, Johannes Mansel, Johannes filius Galfridi, Petrus de Monteforti, Ricardus de Gray, Rogerus de Mortuo Mari, Jacobus de Aldithelege.

Les duze de par le rei unt eslu des duze de par le commun .... } Le cunte Roger le Marescall, Hugo le Bigot.

E la partie ver le commun ad eslu des duze ke sunt de par le rei } Le cunte de Warewik, Johannes Mansell.

E ces quatre unt poer a eslire le cunseil le rei, et quant il unt eslu, il les mustrunt as vint et quatre ; et la u la greinure partie de ces assente, seit tenu.

Ces sunt les duze ke sunt eslu per les baruns a treter a treis parlemenz per an oveke le cunseil le rei pur tut le commun de la tere de commun bosoine.

Episcopus Londoniensis, comes Wintoniensis, comes Herefordensis, Philippus Basset, Johannes de Bailol, Johannes de Verdun, Johannes de Gray, Rogerus de Sumery, Rogerus de Monte Alto, Hugo Dispensarius, Thomas de Gresley, Aegidius de Argenten.

Ces sunt les vint et quatre ke sunt mis per le commun a treter de aide le rei.

Episcopus Wigornensis, episcopus Londoniensis, episcopus Sarum ; comes Leycestrensis, comes Glovernensis, comes Marescallus, Petrus de Sabaudia, comes Herefordensis, comes Aubemarliae, comes Wintoniensis, comes Oxoniensis, Johannes filius Galfridi, Johannes de Gray, Johannes de Bailol, Rogerus de Mortuo Mari, Rogerus de Monte Alto, Rogerus de Sumery, Petrus de Monteforti, Thomas de Greley, Fulco de Kerdistón, Aegidius de Argenton, Johannes Kyriel, Philippus Basset, Aegidius de Erdinton.

E si aukun de ces ne i pusse estre u ne voile, a ces ke i serrunt apent poer de autre eslire en sun liu.

Del estat de seint Eglise.

A remembrer fet ke le estat le seint Eglise sei amende par les vint et quatre esluz a refurmer le estat del reaume de Engletere, kant il verrunt liu et tens solum le poer ke il en unt par la lettre le rei de Engletere.

De la haute justice.

Derichef ke justice seit mis un u deus, et quel poer il avera, et ke il ne seit fors un an. Issi ke al chef del an respoine devant le rei et sun cunseil de sun tens et devant celui ke serra apres lui.

Del tresorer e de le eschecker.

Autel del tresorer. Mes ke il rende acunte al chef del an. E bone genz autres seient mis al escheker solum le ordenement les avant dit vint et quatre. E la vengent totes les issues de la tere, et en nule part ailurs. E ceo ke lem verra a amender seit amende.

Del Chanceler.

Autel del chanceler. Issi ke al chef del an respoine de sun tens. E ke il ne ensele hors de curs par la sule volunte del rei ; mes le face par le cunseil ke serra entur le rei.

Del poer la justice e de bailivis.

La haute justice a poer de amender les tors fez de tutes autres justices, et de ballifs, e de cuntes, et de baruns, et de tutes autres genz, solum lei et dreit de la tere. E les brefs seient pledez solum lei de la tere e en leus deues. E ke la justice ne prenge ren si ne seit present de pain et de vin et de teles choses, ceo est a saver, viandes et beifres, sicum lem ad este acustume a porter as tables de prodes homes a la jornee. E ceste meime chose seit entendue de tuz les cunseilers le rei et de tuz ses ballifs. E ke nul ballif par achesun de plai u de sun office ne prenge nul loer par sa main, ne par autru en nule manere. E si il est ateint, ke il seit reint, et cil ke done autresi. E si covent ke le rei done a sa justice et a sa gent ke le servent, ke il ne eient mester ke il ren prengent de autrui.

De vescuntes.

Les vescuntes seient purveus leus genz et prodes homes et tere tenanz ; issi ke en chescun cunte seit un vavasur del cunte memes vescunte, ke ben et leuement trete la gent del cunte et dreitement. E ke il ne prenge loer, e ke il ne sei vescunte fors un an ensemble. E ke en le an rende ses acuntes al echeker, e respoine de sun tens. E ke le rei lui face del soen, solum sun afferant coment il pusse garder le cunte dreitement. E ke il ne prenge nul loer, ne li ne ses ballifs. E si il seient ateint, seient reinz.

A remembrer fet ke lem mette tel amendement a la Gyuerie et as gardeins de la Gyurie, ke lem i sauve le serement.

De Eschaeturs.

Bons eschaeturs seient mis. E ke il ne prengent rens des bens as morz, de queles teres deivent estre en la main le rei.

Mes ke les eschaeturs eient franche administraciun des bens, deske il averunt fet le gre le rei si dette lui deivent. E ceo solum la furme de la chartre de franchise. E ke lem enquerge des tors fez ke eschaeturs unt fet ca en arere, et seit amende de tel et de tel. Ne tailage ne autre chose ne prenge, fors si come il devera solum la chartre de franchise.

La chartre de franchise seit garde fermement.

Del Eschange de Lundres.

A remembrer fet del eschange de Lundres amender, et de la cite de Lundres, et de totes les autres citez le rei, ke a hunte et a destrucciuns sunt alez per tailages et autres oppressions.

De hospitio regis et reginae.

A remembrer fet del hostel le rei et la regine amender.

Des parlemenz, quanz serrunt tenuz per an et coment.

Il fet a remembrer ke les xxiv. unt ordene ke treis parlemenz seient par an. Le premerein as utaves de Sein Michel: le secund le demein de la Chandelur: le terz le premer jor de June, ceo est a saver, treis semeines devant le Seint John. A ces treis parlemenz, vendrunt les cunseillers le rei esluz, tut ne seient il pas mandez pur ver le estat del reaume et pur treter les cummuns bosoingnes del reaume et del rei ensement. E autre fez ensement quant mester serra per le mandement le rei.

Si fet a remembre ke le commun eslise xii. prodes homes, ke vendrunt as parlemenz et autre fez quant mester serra, quant le rei u sun cunseil les mandera pur treter de bosoingnes le rei et del reaume. E ke le commun tendra pur estable ceo ke ces xii. frunt. E ceo serra fet pur esparnier le cust del commun.

Quinze serrunt nomez par ces quatre, ceo est a saver per le cunt le Marechall, le cunte de Warewik, Hugo le Bigot, et John Mansel, ki sunt esluz par les xxiv. pur nomer les devant dit quinze, les queus serrunt de cunseil le rei. E serrunt cunfermez par les avant dit xxiv. u par la greinore partie de els. E averunt poer del rei conseiler en bone fei del governement del reaume, et de totes choses ke al rei u al reaume pertenent. E pur amender et adrescer totes les choses ke il verrunt ke facent a adrescer et amender. E su le haute justice, et sur totes autres genz. E si il ne poent tuz estre, ceo ke la greinure partie fra, serra ferm et estable.

Ceo sunt les nums des cheveteins chasteaus le rei, et de ceus ke les unt en garde.

Robertus de Neville ; Bamburg, Novum castrum super Tyne. Gilbertus de Gant ; Scardeburg. Willelmus Bardulf ; Notingham. Radulfus Basset de Sapercot ; Norhamton. Hugo Bigot ; Turris Londoniarum. Ricardus de Gray ; Doveria. Nicolaus de Moules ; Roucestria et Cantuaria. — Wintonia. Rogerus de Samford ; Porcestria. Stephanus Longe Espee ; Corfe. Matheus de Besill ; Gloucestria. Henricus de Tracy ; Exonia. Ricardus de Rochele ; Haldesham. Johannes de Gray ; Herefordia. Robertus Walrant ; Sarum. Hugo Dispensarius ; Horestan. Petrus de Monteforti ; Brugewalter. Comes Warewik ; Divises. Johannes filius Bernardi ; Oxonia.—(*Ann. Burton,* pp. 446–453.)

TRANSLATION.

This the commonalty of England swore at Oxford.

We, so and so, make known to all men, that we have sworn upon the holy Gospels, and are held together by such oath, and promise in good faith, that each one of us and we all together will mutually aid each other, both ourselves and those belonging to us, against all people, doing right and taking nothing that we cannot without doing wrong, saving faith to the king and the crown. And we promise under the same oath, that none of us will henceforth take land or moveables in such wise that this oath can be disturbed or in anyways impaired. And if any one acts against this, we will hold him as a mortal enemy.

This is the oath to the twenty-four.

Each swore on the holy Gospels, that he for the honour of God, and for his faith to the king, and for the profit of the realm, will ordain and treat with the aforesaid sworn persons upon the reformation and amendment of the state of the realm. And that he will not fail for gift, nor for promise, for love, nor for hate, nor for fear of any one, nor for gain, nor for loss, loyally to do according to the tenour of the letter which the king and his son have together given concerning this.

This the chief justiciar of England swore.

He swears that he will well and loyally according to his power do that which belongs to the justiciar's office in doing right, to all persons, to the profit of the king and the kingdom, according to the provision made and to be made by the twenty-four, and by the counsel of the king and the great men of the land who shall swear in these things to aid and support him.

This the chancellor of England swore.

That he will seal no writ, excepting writs of course, without the commandment of the king and of his council who shall be present. Nor shall he seal a gift of a great wardship, or of a great [ ][1],

[1] A blank space in the MS.

nor of escheats, without the assent of the great council or of the major part. And that he will seal nothing which may be contrary to the ordinance which is made and shall be made by the twenty-four, or by the major part. And that he will take no fee otherwise than what is given to the others. And he shall be given a companion in the form which the council shall provide.

This is the oath which the guardians of the castles made.

That they will keep the castles of the king loyally and in good faith for the use of the king and of his heirs; and that they will give them up to the king or to his heirs, and to none other, and by his counsel and in no other manner; to wit, by honest men of the land elected as his council, or by the major part. And this written undertaking lasts for twelve years. And from that time forward by this settlement and this oath they shall not be hindered so that they cannot freely give them up to the king and his heirs.

These are those who are sworn of the king's council.

[The names follow.]

The twelve on the king's side have elected out of the twelve on that of the commonalty the Earl Roger the Marshall, and Hugh Bigot.

And the party of the commonalty have elected out of the twelve who are on the king's side the Earl of Warwick and John Mansel.

And these four have power to elect the council of the king, and when they have elected them, they shall present them to the twenty-four; and as the greater part of these agree, it shall stand.

These are the twelve who are elected by the barons to treat at the three annual parliaments with the king's council for all the commonalty of the land regarding the common need.

[The names follow.]

These are the twenty-four who are appointed by the commonalty to treat of an aid to the king.

[The names follow.]

And if any one of these cannot or will not serve, those who shall be there have power to elect another in his place.

Of the state of holy church.

Be it remembered that the state of the holy church be amended by the twenty-four elected to reform the state of the realm of England, when they shall see place and time, according to the power which they have respecting it by the letter of the King of England.

Of the chief justiciar.

Moreover, that a justiciar be appointed, one or two, and what power he shall have, and that he be only for a year. So that at the end of the year he answer concerning his time before the king and his council and before him who shall follow him.

Of the treasurer, and of the exchequer.

The like of the treasurer. That he too give account at the end of the year. And other good persons are to be placed at the exchequer according to the direction of the aforesaid twenty-four. And there let all the issues of the land come in, and in no part elsewhere. And let that which shall be seen to require amendment, be amended.

Of the chancellor.

The like of the chancellor. That he at the end of the year answer concerning his time. And that he seal nothing out of course by the sole will of the king. But that he do it by the council which shall be around the king.

Of the power of the justiciar and bailiffs.

The chief justiciar has power to amend the wrongs done by all the other justiciars and bailiffs, and earls and barons, and all other people, according to the law and custom of the land. And let the writs be pleaded according to the law of the land, and in fit places. And that the justiciar take nothing unless it be presents of bread and wine, and such things, to wit, meat and drink, as have been used to be brought to the tables of honourable men for the day. And let this same thing be understood of all the king's councillors and all his bailiffs. And that no bailiff, by occasion of plea or of his office, take any fee by his own hand, or by that of another in any manner. And if he is convicted, that he be punished, and he who gives likewise. And also it is fitting that the king give to his justiciar and his people who serve him, so that they have no occasion to take anything from any other person.

Of the sheriffs.

Let there be provided as sheriffs, loyal people, and substantial men, and holders of land; so that in each shire there be a vavasour of the same shire as sheriff, who shall treat the people of the shire well, loyally, and rightfully. And that he take no fee, and that he be sheriff only for a year together; and that in the year he give up his accounts at the exchequer and answer for his time. And that the king grant unto him out of his own, according to his contribution, so that he can guard the shire rightfully. And that he take no fee, neither he nor his bailiffs. And if they be convicted, let them be punished.

Be it remembered that such amendment is to be applied to the Jewry, and to the wardens of the Jewry, that the oath as to the same may be kept.

Of the escheators.

Let good escheators be appointed; and that they take nothing of the effects of the dead, of such lands as ought to be in the king's hand. Also that the escheators have free administration of the goods until they shall have done the king's will, if the estate owe him debts. And that according to the form of the Charter of liberty. And that inquiry be made into the wrongs done which the escheators have done there aforetime, and amendment be made of such and such. Nor let tallage on anything else be taken, excepting as it ought to be according to the Charter of liberty.

Let the Charter of liberty be kept firmly.

Of the exchange of London.

Be it remembered to amend the exchange of London, and the city of London, and all the other cities of the king which have gone to shame and destruction by the tallages and other oppressions.

Of the household of the king and queen.

Be it remembered to amend the household of the king and the queen.

Of the parliaments, how many shall be held annually, and in what manner.

It is to be remembered that the twenty-four have ordained that there be three parliaments a year. The first at the octave of St. Michael. The second the morrow of Candlemas. The third the first day of June, to wit, three weeks before St. John's day. To these three parliaments the elected councillors of the king shall come, even if they are not sent for, to see the state of the realm, and to treat of the common wants of the kingdom, and of the king in like manner. And at other times in like manner when occasion shall be, by the king's command.

So it is to be remembered that the commonalty shall elect twelve honest men, who shall come to the parliaments and at other times when occasion shall be, when the king or his council shall send for them, to treat of the wants of the king and of the kingdom. And that the commonalty shall hold as established that which these twelve shall do. And that shall be done to spare the cost of the commonalty.

There shall be fifteen named by these four, to wit, by the Earl Marshall, the Earl of Warwick, Hugh Bigod, and John Mansel, who are elected by the twenty-four to name the aforesaid fifteen, who shall be the king's council. And they shall be confirmed by the aforesaid twenty-four, or by the major part of them. And they shall have power to counsel the king in good faith concerning the government of the realm and all things which appertain to the king or to the kingdom; and to amend and redress all things which they shall see require to be redressed and amended. And over the chief justiciar and over all other people. And if they cannot all be present, that which the majority shall do shall be firm and established.

These are the names of the principal castles of the king, and of those who have them in keeping.

[The names follow.]

(*Chiefly from the Translation by* Mr. Luard, *Ann. Burton*, pp. 501–505.

No. V. *Proclamation of the King's Adhesion to the Provisions.*

1. Henr' þurȝ Godes fultume king on Engleneloande, Lhoauerd on Yrloand', Duk on Norm' on Aquitain' and eorl on Aniow send igretinge to alle hise holde ilærde and ileawede on Huntendon' schir'. Þæt witen ȝe wel alle Þæt we willen and unnen Þæt. Þæt ure rædesmen alle oþer Þe moare dæl of heom Þæt beoþ ichosen Þurȝ us and Þurȝ Þæt loandes folk

on ure kuneriche. habbeþ idon and schullen don in þe worþnesse of Gode and on ure treowþe. for þe freme of þe loande. þur3 þe besi3te of þan to foren iseide redesmen; beo stedefæst and ilestinde in alle þinge abuten ænde. And we hoaten alle ure treowe in þe treowþe, þæt heo us o3en, þæt heo stedefæstliche healden and swerien to healden and to werien þo isetnesses þæt beon imakede and beon to makien þur3 þan to foren iseide rædesmen oþer þur3 þe moare dæl of heom alswo alse hit is biforen iseid. And þæt æhc oþer helpe þæt for to done bi þan ilche oþe a3enes alle men, ri3t for to done and to foangen. And noan ne nime of loande ne of e3te, wherþur3 þis besigte mu3e beon ilet oþer iwersed on onie wise. And 3if oni oþer onie cumen her on3enes: we willen and hoaten þæt alle ure treowe heom healden deadliche ifoan. And for þæt we willen þæt þis beo stedefæst and lestinde; we senden 3ew þis writ open iseined wiþ ure seel. to halden amanges 3ew ine hord. Witnesse us seluen æt Lunden'. þane E3tetenþe day on þe Monþe of Octobr', In þe Two and fowerti3þe 3eare of ure cruninge. And þis wes idon ætforen ure isworene redesmen. Bonefac' Archebischop on Kant'bur'. Walt' of Cantelow. Bischop on Wirechestr'. Sim' of Muntfort. Eorl on Leirchestr'. Ric' of Clar' Eorl on Glowchestr' and on Hurtford'. Rog. Bigod Eorl on Northfolk' and Marescal on Engleneloand'. Perres of Sauueye. Will' of Fort Eorl on Aubem'. Joh' of Plesseiz Eorl on Warewik'. Joh' Geffrees sune. Perres of Muntfort. Ric' of Grey. Rog' of Mortemer. James of Aldithel and ætforen oþre ino3e.

And al on þo ilche worden is isend in to ævrihce oþre shcire ouer al þære kuneriche on Engleneloande. and ek in tel Irelonde.—(*Foedera*, i. 378, collated with the edition of A. J. Ellis, London, 1868, and the facsimile published by the New Palaeographical Society's *Facs. of Ancient Manuscripts*, Pt. II, No. 73 (1905).)

TRANSLATION.

Henry, by the grace of God king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to all his faithful, clerk and lay, in Huntingdonshire, greeting. Know ye all well that we will and grant that that which our counsellors, all or the greater part of them, that be chosen by us and by the people of the land of our kingdom, have done and shall do in honour of God and in loyalty to us, for the benefit of the country, by the provision of the aforesaid counsellors, be steadfast and lasting in all things without end. And we command all our true men in the troth that they owe us, that they

steadfastly hold and swear to hold and to defend the statutes that be made or to be made by the aforesaid counsellors or by the greater part of them as is aforesaid; and that each help other that for to do by the same oath, against all men, right for to do and to receive; and let no one take of land or of goods, whereby this provision may be hindered or damaged in any wise. And if any person or persons come there against, we will and command that all our faithful hold them as deadly foes. And for that we will that this be steadfast and lasting, we send you this writ open, sealed with our seal, to keep among you in store. Witness ourself at London, the 18th of October, in the forty-second year of our reign. And this was done before our sworn counsellors—Boniface, archbishop of Canterbury; Walter of Cantelupe, bishop of Worcester; Simon of Montfort, earl of Leicester; Richard of Clare, earl of Gloucester and Hertford; Roger Bigod, earl of Norfolk and marshall of England; Peter of Savoy; William de Fortibus, earl of Albemarle; John of Plessis, earl of Warwick; John, son of Geoffrey; Peter of Montfort; Richard of Grey; Roger of Mortimer; James of Audley; and others after them. And all in the same words is it sent into every other shire over all the kingdom of England and also into Ireland.

No. VI. A.D. 1259. *The Provisions of the Barons.*

These were drawn up in pursuance of the plan initiated by the Provisions of Oxford, and were published and ratified by the king on the feast of S. Edward, 1259. They were republished by Henry in 1262, when he was at one with the barons; and again in 1264, during his captivity. They were, after the general pacification, embodied in the Statute of Marlborough in 1267. A number of the articles are framed in the interest of mesne feudal tenants; and two in particular dealt a severe blow to the courts which the barons held for their vassals. (Nos. I and XVI.) In this respect the Provisions of Westminster anticipate the policy of Edward I.

The Provisions were framed on the demand of a party who are called *communitas bacheleriae Angliae* (*Burton Annals*, p. 471). They may have been the lesser landowners, tenants in chivalry of lower rank than the barons; or, if we follow the etymological explanation of *bacheleria*, we may suppose that they were a party of the younger nobles, 'a chance number of rash young gentlemen.' (See the article by T. F. Tout in *Eng. Hist. Review*, xvii. 89–94.)

Anno ab Incarnatione Domini M°CC°L°IX° regni autem Henrici regis, filii regis Johannis xliii°, convenientibus apud Westmonasterium in quindena Sancti Michaelis ipso domino rege et magnatibus suis, de communi consilio et consensu dictorum regis et magnatum factae sunt provisiones subscriptae per ipsos regem et magnates et publicatae in hunc modum.

1. De sectis faciendis ad curias magnatum et aliorum dominorum ipsarum curiarum, provisum est et concorditer statutum quod nullus qui per cartam feofatus est, distringatur de cetero ad sectam faciendam ad curiam domini sui, nisi per formam cartae suae specialiter teneatur ad sectam faciendam ; hiis tantum exceptis quorum antecessores vel ipsimet hujusmodi sectam facere consueverunt ante primam transfretationem dicti domini regis in Britanniam, a tempore cujus transfretationis elapsi fuerunt xxix. anni et dimidius tempore quo haec constitutio facta fuit : et similiter nullus feofatus sine carta a tempore conquaestus vel alio antiquo feofamento distringatur ad hujusmodi sectam faciendam, nisi ipse vel antecessores sui eam facere consueverunt ante primam transfretationem domini regis in Britanniam.

2. Et si haereditas aliqua, de qua tantum una secta debebatur, ad plures haeredes participes ejusdem devolvatur, ille qui habet einesciam haereditatis illius unicam faciat sectam pro se et particibus suis : et participes sui pro portione sua contribuant ad sectam illam faciendam. Similiter etiam si plures feofati fuerint de haereditate aliqua, de qua unica secta debebatur, dominus illius feodi unicam habeat inde sectam, nec possit de praedicta haereditate nisi unicam sectam exigere, sicut fieri prius consuevit. Et si feofati illi warantum vel medium non habeant qui inde eos acquietare debeat, tunc omnes feofati contribuant pro portione sua ad sectam illam faciendam.

3. Si autem contingat quod domini curiarum tenentes suos contra hanc provisionem pro hujusmodi secta distringant, tunc ad querimoniam tenentium illorum attachientur quod ad curiam regis veniant ad brevem diem inde responsuri ; et unicum habeant essonium si fuerint in regno ; et incontinenti deliberentur conquerenti averia sive districtiones aliae hac occasione factae, et deliberata remaneant donec placitum inter eos terminetur. Et si domini curiarum, qui districtiones hujusmodi fecerint, ad diem ad quem attachiati fuerint non venerint,

vel diem per essonium sibi datum non observaverint, tunc mandetur vicecomiti quod eos ad diem illum venire faciat, ad quem diem si non venerint, mandetur vicecomiti quod distringat eos per omnia quae habent in ballia sua, ita quod regi respondeat de exitibus, et quod habeat eorum corpora ad certum diem praefigendum, ita quod, si die illo non venerint, pars conquerens eat inde sine die, et averia sive aliae districtiones deliberata remaneant donec ipsi domini sectam illam recuperaverint per considerationem curiae domini regis ; et cessent interim districtiones hujusmodi, salvo dominis curiarum jure suo de sectis illis perquirendis in forma juris, cum inde loqui voluerint. Et cum domini curiarum venerint responsuri conquerentibus de hujusmodi districtionibus, si super hoc convincantur, tunc per considerationem curiae recuperent conquerentes versus eos damna sua quae sustinuerunt occasione praedictae districtionis. Simili autem modo si tenentes post hanc constitutionem subtrahant dominis suis sectas quas facere debent, et quas ante tempus supradictae transfretationis et hactenus facere consueverunt, per eandem justitiam et celeritatem quo ad dies praefigendos et districtiones adjudicandas consequantur domini curiarum justitiam de sectis illis, una cum damnis suis, quemadmodum tenentes sua damna recuperant. Et hoc scilicet de damnis recuperandis intelligatur de subtractionibus sibi factis, et non de subtractionibus factis praedecessoribus ipsorum ; verum tamen domini curiarum versus tenentes suos seisinam de sectis hujusmodi recuperare non poterunt per defaltam, sicut nec hactenus fieri consuevit. De sectis autem quae ante tempus supradictae transfretationis subtractae fuerunt, currat lex communis sicut prius currere consuevit.

4. De turno vicecomitis provisum est, ut necesse non habeant ibi venire archiepiscopi, episcopi, abbates, priores, comites, barones, nec aliqui religiosi seu mulieres, nisi specialiter eorum praesentia exigatur ; sed teneatur turnus sicut temporibus praedecessorum domini regis teneri consuevit. Et si qui in hundredis diversis habeant tenementa, non habeant necesse ad hujusmodi turnum venire, nisi in balliis ubi fuerint conversantes ; et teneantur turni secundum formam Magnae Cartae regis, et sicut temporibus regum Johannis et Ricardi teneri consueverunt.

5. Provisum est etiam quod nec in itinere Justitiarum nec in comitatibus, nec in curiis baronum, de cetero ab aliquibus

recipiantur fines pro pulchre placitando, neque per sic quod non occasionentur.

6. In placito vero dotis quod dicitur *Unde nihil habet*, dentur de cetero quatuor dies per annum ad minus, et plures si commode fieri posset.

7. In assisis ultimae praesentationis, et in placito *Quare impedit* de ecclesiis vacantibus, detur dies de quindena in quindenam, vel de tribus septimanis in tres septimanas, prout locus propinquus fuerit vel remotus. Et in placito *Quare impedit*, si ad primum diem, ad quem summonitus fuerit, non veniat nec essonium mittat impeditor, tunc attachietur ad diem alium, quo die si non venerit nec essonium mittat, distringatur per magnam districtionem superius dictam. Et si tunc non venerit, per ejus defaltam scribatur episcopo quod reclamatio impeditoris illa vice conquerenti non obsistat, salvo impeditori alias jure suo, cum inde loqui voluerit.

8. De cartis vero exemptionis et libertatis ne ponantur impetrantes in assisis, juratis vel recognitionibus, provisum est, ut si adeo necessarium sit eorum juramentum quod sine eo justitia exhiberi non possit, veluti in magna assisa et perambulationibus et ubi in cartis vel scripturis conventionum fuerint testes nominati, aut in attinctis vel casibus aliis consimilibus, jurare cogantur, salva sibi alias libertate et exemptione sua praedicta.

9. Si haeres aliquis post mortem sui antecessoris infra aetatem exstiterit, et dominus suus custodiam terrarum suarum habuerit, si dominus ille dicto haeredi, cum ad legitimam aetatem pervenerit, terram suam sine placito reddere noluerit, haeres ille terram suam ut de morte sui antecessoris recuperabit, una cum damnis quae sustinuerit per illam detentionem a tempore quo legitimae fuerit aetatis ; quod si haeres in morte sui antecessoris plenae fuerit aetatis, et haeres ille apparens et pro haerede cognitus inventus sit in haereditate illa, capitalis dominus ejus eum non ejiciat nec aliquid ibi capiat vel amoveat, sed tantum simplicem seisinam faciat per recognitionem dominii sui.

10. Et si capitalis dominus haeredem hujusmodi extra seisinam malitiose teneat, per quod per actionem mortis antecessoris vel consanguinitatis oporteat ipsum placitare, tunc damna sua recuperet sicut in actione novae disseisinae.

11. Nulli de cetero liceat ex quacunque causa districtiones facere extra feodum suum, neque in regia aut communi strata, nisi domino regi et ministris suis.

12. Provisum est etiam quod si terra quae tenetur in socagium sit in custodia parentum haeredis, eo quod haeredes infra aetatem fuerint, custodes illi vastum facere non possunt neque venditionem nec aliquam destructionem de haereditate illa, sed salvo eam custodiant ad opus dicti haeredis; ita quod cum ad aetatem pervenerit, sibi respondeant per legitimam computationem de exitibus dictae haereditatis; salvis ipsis custodibus rationabilibus misis suis. Nec etiam possunt dicti custodes maritagium dicti haeredis dare vel vendere nisi ad commodum ipsius haeredis.

13. Nullus escaetor, aut inquisitor, vel Justitia ad assisas aliquas capiendas specialiter assignatus, vel ad querelas aliquas audiendas et terminandas, de cetero potestatem habeant amerciandi pro defalta communis summonitionis, nisi capitalis Justitia vel Justitiarii itinerantes in itineribus suis.

14. Viris autem religiosis non liceat ingredi feodum alicujus sine licentia capitalis domini, de quo scilicet res ipsa immediate tenetur.

15. De essoniis autem provisum est quod in comitatibus, hundredis aut curiis baronum, vel alibi, nullus habeat necesse jurare pro essonio suo warantizando.

16. Nullus de cetero excepto rege placitum teneat in curia sua de falso judicio facto in curia tenentium suorum, quia hujusmodi placita ad coronam specialiter pertinent et dignitatem regis.

17. Provisum est etiam quod si averia alicujus capiantur et injuste detineantur, vicecomes post querimoniam inde tibi factam, ea sine impedimento vel contradictione ejus qui dicta averia cepit, deliberare possit, si extra libertates capta fuerint; et si infra libertates hujusmodi capiantur averia, et ballivi libertatum ea deliberare noluerint, tunc vicecomes per defectum dictorum ballivorum ea faciat deliberari.

18. Nullus de cetero distringere possit libere tenentes suos ad respondendum de libero tenemento suo, neque de aliquibus ad liberum tenementum suum spectantibus, sine brevi regis, nec jurare faciat libere tenentes suos contra voluntatem suam, desicut nullus hoc facere potest sine praecepto regis.

19. Provisum est etiam quod si ballivi qui compotum dominis suis reddere tenentur se subtraxerint, et terras vel tenementa non habuerint per quae distringi possint, tunc per eorum corpora attachientur, ita quod vicecomites in quorum balliis invenientur, eos venire faciant ad compotum suum reddendum.

20. Item firmarii tempore suarum firmarum vastum vel venditionem vel exilium non faciant de boscis, domibus, hominibus nec de aliis aliquibus ad tenementa quae ad firmam habuerint spectantibus, nisi specialem habeant concessionem per scripturam suae conventionis mentionem habentis quod hoc facere possint. Et si fecerint, et de hoc convincantur, damna plene refundant.

21. Justitiarii itinerantes de cetero non amerciant villatas in itinere suo, pro eo quod singuli xii. annorum non venerint coram vicecomitibus et coronatoribus ad inquisitiones de morte hominis aut aliis ad coronam pertinentibus, dum tamen de villis illis veniant sufficienter per quos inquisitiones hujusmodi plene fieri possint.

22. Murdrum de cetero non adjudicetur coram Justitiis ubi infortunium tantummodo adjudicatum est ; sed locum habeat murdrum in interfectis per feloniam et non aliter.

23. Provisum est insuper quod nullus qui coram Justitiis itinerantibus vocatur ad warantum de placito terrae vel tenementi, amercietur de cetero pro eo quod praesens non fuerit, excepto primo die adventus ipsorum Justitiarum : sed si warantus ille sit infra comitatum, tunc injungatur vicecomiti quod ipsum infra diem tertium vel quartum secundum locorum distantiam faciat venire, sicut in itinere Justitiarum fieri consuevit ; et si extra comitatum maneat, tunc rationabilem habeat summonitionem xv. dierum ad minus secundum discretionem Justitiarum et legem communem.

24. Si clericus aliquis pro crimine aliquo vel retto quod ad coronam pertineat, arestatus fuerit, et postmodum de praecepto regis in ballium traditus vel replegiatus exstiterit, ita quod hii quibus traditur in ballium eum habeant coram Justitiis, non amercientur de cetero illi quibus traditus fuit in ballium, vel alii plegii sui, si corpus suum habeant coram Justitiis, licet coram eis propter privilegium clericale respondere nolit vel non possit.—(*Statutes of the Realm*, i. 8–11.)

No. VII. A.D. 1261. *Writ summoning three Knights of the Shire to Parliament at Windsor.*

Rex Vicecomiti Norfolchiae et Suffolchiae, salutem. Cum ex parte episcopi Wigornensis, comitum Leycestriae et Gloucestriae et quorundam aliorum procerum regni nostri vocati sint tres milites de singulis comitatibus nostris quod sint coram ipsis apud Sanctum Albanum in instanti festo

Sancti Matthaei Apostoli secum tractaturi super communibus negotiis regni nostri, et nos et praedicti proceres nostri in eundem diem apud Windesoram convenerimus ad tractandum de pace inter nos et ipsos, tibi praecipimus quod illis militibus de ballia tua, qui vocati sunt coram eis ad diem praedictum, firmiter injungas ex parte nostra ut, omni occasione postposita, ad nos die praedicto veniant apud Windesoram, et eis etiam districte inhibeas ne dicto die alibi quam ad nos accedant, sed eos modis omnibus venire facias coram nobis ad diem praedictum, nobiscum super praemissis colloquium habituros, ut ipsi per effectum operis videant et intelligant quod nihil attemptare proponimus nisi quod honori et communi utilitati regni nostri noverimus convenire. T.R. apud Windesoram, XI. die Septembris.—(*Report on the Dignity of a Peer*, App. i. p. 23.)

No. VIII. A.D. 1264. *Award of S. Lewis.*

Ludovicus, Dei gratia, Francorum rex, universis praesentes litteras inspecturis, salutem. Notum facimus quod carissimus consanguineus noster Henricus illustris rex Angliae et subscripti barones Angliae in nos compromiserunt, prout continetur in litteris eorum infra scriptis: . . .

Insuper praedictus rex Angliae ex una parte et superius nominati ex alia parte barones, de omnibus contentionibus exortis inter eos post praedictum festum usque in praeteritum diem Sanctae Luciae occasione praedicta, in nos compromiserunt et promiserunt per juramenta tactis sacrosanctis evangeliis praestita, bona fide se servaturos quicquid statuerimus et ordinaverimus de his vel eorum aliquibus, ita tamen quod citra Pentecosten proximo venturam dicamus super his dictum nostrum, et super omnibus quae super rebus in compromissum deductis vel circa ipsas interim contigerit attemptari. Nos vero, partibus propter hoc convocatis Ambiani, dicto rege personaliter et quibusdam de baronibus per se et aliis per procuratores comparentibus coram nobis; auditis hinc inde propositis et etiam defensionibus ac rationibus partium plenius intellectis, attendentes per provisiones, ordinationes, statuta et obligationes Oxonienses, et per ea quae ex eis et occasione eorum subsecuta sunt, juri et honori regio plurimum fuisse detractum, regni turbationem, ecclesiarum depressionem et depraeditationem, et aliis personis ipsius regni, ecclesiasticis et saecularibus, indigenis et alienigenis,

gravissima dispendia provenisse ; et quod verisimiliter timebatur ne graviora contigerint in futurum, communicato bonorum et magnatum consilio ; In Nomine Patris et Filii et Spiritus Sancti praedictas provisiones, ordinationes, statuta et obligationes omnes, quocunque modo censeantur, et quidquid ex eis vel occasione eorum subsecutum est, per dictum nostrum, seu ordinationem nostram, cassamus et irritamus, maxime cum appareat summum pontificem eas per litteras suas cassas et irritas nunciasse ; ordinantes quod tam dictus rex quam barones et alii quicunque praesenti compromisso consenserunt, et de praedictis observandis se quoquomodo astrinxerunt, se de eisdem quietent penitus et absolvant. Adjicimus etiam quod ex vi seu viribus praedictarum provisionum sive obligationum seu ordinationum, vel alicujus jam super hoc concessae potestatis a rege, nullus nova statuta faciat neque jam facta teneat vel observet, nec propter non-observantiam praedictorum debeat aliquis alterius capitalis vel aliter inimicus haberi, vel poenam propter hoc aliquam sustinere. Decernimus etiam quod omnes litterae, super praemissis provisionibus et eorum occasione confectae, irritae sint et inanes, et ordinamus quod ipsi regi Angliae restituantur a baronibus et reddantur. Item dicimus et ordinamus quod castra quaecunque fuerint tradita custodienda ad securitatem seu occasione praedictorum et adhuc sunt detenta, libere a dictis baronibus eidem regi reddantur, tenenda ab eodem rege sicut ea tenebat ante tempus dictarum provisionum. Item dicimus et ordinamus quod libere liceat praedicto regi capitalem justitiarium, cancellarium, thesaurarium, consiliarios, justitiarios minores, vicecomites et quoscunque alios officiales ac ministeriales regni sui ac domus suae praeficere, destituere et amovere, pro suae libito voluntatis, sicut faciebat et facere poterat ante tempus provisionum praedictarum. Item retractamus et cassamus illud statutum factum quod regnum Angliae de cetero per indigenas gubernetur, necnon ut exirent alienigenae non reversuri, exceptis illis quorum moram fideles regni communiter acceptarent ; ordinantes per dictum nostrum quod liceat alienigenis morari in dicto regno secure ; et quod rex possit alienigenas et indigenas vocare secure ad consilium suum, quos sibi viderit utiles et fideles, sicut facere poterat ante tempus praedictum. Item dicimus et ordinamus, quod dictus rex plenam potestatem et liberum regimen habeat in regno suo et ejus pertinentiis,

et sit in eo statu et in ea plenaria potestate in omnibus et per omnia sicut erat ante tempus praedictum.

Nolumus autem nec intendimus per praesentem ordinationem derogare in aliquo regiis privilegiis, cartis, libertatibus, statutis, et laudabilibus consuetudinibus regni Angliae, quae erant ante tempus provisionum ipsarum. Ordinamus etiam quod idem rex praedictis baronibus indulgeat et remittat omnem rancorem quem habet adversus eos occasione praemissorum, et similiter barones eidem ; et quod unus alterum, occasione praemissorum de quibus in nos exstitit compromissum, per se vel per alium de cetero non gravet in aliquo vel offendat. Hanc autem ordinationem nostram seu dictum nostrum protulimus Ambianis, in crastino beati Vincentii Martyris, A.D. M°CC°LX°III°, mense Januario. In cujus rei testimonium praesentibus litteris nostrum apponi fecimus sigillum. Actum anno, mense, die et loco praedictis.—(*Foedera*, i. pp. 433, 434.)

A.D. 1264–5. Documents connected with Simon de Montfort's Administration.

The surrender of the king and his son immediately after the battle of Lewes placed the supreme authority in the hands of the Earl of Leicester. The text of the Mise of Lewes, which contained the terms of the surrender, is not preserved, but it is known to have included an agreement for a second arbitration as to all controversies between the king and his adversaries. Until this award should be given, it was necessary that some system of administration should be devised ; the royal castles were immediately entrusted to adherents of the barons ; and on the 4th of June writs were issued in the king's name, appointing guardians of the peace in each county, and summoning four knights from each to treat with the king in parliament on the 22nd of the same month. (No. I.) The parliament assembled and approved a scheme of government, which was to hold good until the Mise of Lewes was executed, by which the supreme power was placed in the hands of the king, with the assistance of nine counsellors, of whom three were to be in constant attendance upon him. This body was

to be nominated by three primary electors. (No. II.) The three electors were the Bishop of Chichester and the Earls of Leicester and Gloucester.

On the 6th of July the whole force of the country was summoned to London for the 3rd of August, to resist the army which was coming from France under the queen and her son Edmund. The invading fleet was prevented by the weather from sailing until too late in the season. Early in September, Henry of Almain, son of King Richard, was sent to lay the terms of arbitration before the King of France. The papal legate, Guy Foulquois, who soon after became Clement IV, threatened the barons with excommunication, but the bull containing the sentence was taken by the men of Dover as soon as it arrived, and was thrown into the sea. On the 14th of December the Earl of Leicester, in Henry's name, summoned the famous parliament of 1265, to meet at Westminster on the 20th of January. (No. III.) To this were invited a small number of barons, a very large body of ecclesiastics, two knights from each shire, and two burghers from each town. This is often regarded as the 'origin of popular representation'; but it is not in any sense entitled to this praise. The novelty was simply the assembling the representatives of the towns in conjunction with those of the counties: this was now done for the first time for the purpose of the national council; but we have seen that for all purposes of local self-government it had long been usual, and that the idea of the National Council was rapidly becoming that of the concentration of the local machinery. The really popular representation was that of the shires rather than that of the boroughs, and this, which in its essence was of immemorial antiquity, had long been incorporated in the parliamentary constitution. The credit of making both the popular elements necessary to the complete parliament belongs to Edward I.

On the 10th of March, in the parliament thus summoned, Edward subscribed the peace of June 1264; and on the 20th

the Earl of Leicester was put in possession of the earldom of Chester and other estates, by the surrender of which Edward obtained the terms of reconciliation. He was kept, however, still under strict surveillance. His escape on the 28th of May, and the quarrel of the Earls of Gloucester and Leicester, threw new life into the royal party. Earl Simon fell at Evesham on the 4th of August. But the elements of opposition were unquenched. After a long siege, Henry III, in November 1266, admitted the rebels (who were at Kenilworth) to surrender. During the siege the *Dictum de Kenilworth* (No. VI) was drawn up for the general pacification of the kingdom; and in July 1267 the last of the king's enemies who were left in arms, in Ely, were admitted by Edward to the benefits of that agreement. The parliament of Marlborough, November 1267, re-enacted most of the legal reforms included in the Provisions of the Barons. Immediately after this Edward prepared to join the Crusade. He left England in May 1269; and Henry retained undisturbed possession of the royal authority until his death, November 16, 1272.

No. I. A.D. 1264. *Writ for Conservation of the Peace and Summons to Parliament.*

Rex Adae de Novo mercato, salutem. Cum jam, sedata turbatione nuper habita in regno nostro, pax inter nos et barones nostros, Divina cooperante gratia, ordinata sit et firmata; ac ad pacem illam per totum regnum nostrum inviolabiliter observandam, de consilio et assensu baronum nostrorum provisum sit, quod in singulis comitatibus nostris per Angliam, ad tuitionem et securitatem partium illarum, custodes pacis nostrae constituantur donec per nos et barones nostros de statu regni nostri aliter fuerit ordinatum; cumque nos, de vestra fidelitate simul et industria fiduciam gerentes, vos de consilio dictorum baronum nostrorum custodem nostrum assignaverimus in comitatu Lincolniae quamdiu nobis placuerit; vobis mandamus, in fide qua nobis tenemini firmiter injungentes, quatenus custodiae pacis nostrae ibidem et hiis quae ad conservationem pacis nostrae pertinent, diligenter intendatis, ut praedictum est; firmiter et publice per

totum comitatum praedictum inhibentes, ex parte nostra, ne quis sub poena exhaeredationis et periculo vitae et membrorum super aliquem currat nec aliquem depraedetur, nec homicidia vel incendia, roberias, toltas, seu alia hujusmodi perpetret enormia, nec cuiquam damnum aliquod inferat contra pacem nostram ; nec etiam de cetero arma portet in regno nostro, sine licentia nostra et mandato nostro speciali ; et si quos hujusmodi malefactores et pacis nostrae perturbatores, vel etiam, ut praedictum est, arma portantes, inveneritis, eos sine dilatione arestari et salvo custodiri faciatis donec aliud inde praeceperimus. Et ad hoc si necesse fuerit, totum posse dicti comitatus, cum toto posse comitatuum adjacentium, vobiscum assumatis, custodibus ipsorum comitatuum ad consimilia, cum opus fuerit, viriliter auxiliantes. Et si forte ipsos malefactores evadere contingat, quod nulla ratione vellemus, tunc de nominibus eorum nobis constare faciatis, ut quod justum fuerit de ipsis fieri faciamus. Et quia instanti parliamento nostro, de negotiis nostris et regni nostri, cum praelatis, magnatibus et aliis fidelibus nostris tractare necessario nos oportebit, vobis mandamus quatenus quatuor de legalioribus et discretioribus militibus dicti comitatus, per assensum ejusdem comitatus ad hoc electos, ad nos pro toto comitatu illo mittatis, ita quod sint ad nos Londoniis in octavis instantis festi Sanctae Trinitatis ad ultimum, nobiscum tractaturi de negotiis praedictis ; vos autem in hiis omnibus exsequendis tam fideliter et diligenter vos habeatis, ne per negligentiam vestri ad vos et vestra graviter capere debeamus. Teste Rege apud Sanctum Paulum Londoniis, quarto die Junii.—(*Foedera*, i. 442.)

No. II. A.D. 1264. *Form of Peace determined on in the Parliament.*

Haec est forma pacis a domino rege et domino Edwardo filio suo, praelatis et proceribus omnibus et communitate tota regni Angliae, communiter et concorditer approbata ; videlicet, quod quaedam ordinatio facta in parliamento Londoniis habito circa festum Nativitatis beati Johannis Baptistae proximo praeteritum, pro pace regni conservanda quousque pax inter dictum dominum regem et barones apud Leues, per formam cujusdam misae praelocuta compleretur, duratura omnibus diebus praedicti domini regis, et etiam temporibus domini Edwardi postquam in regem fuerit assumptus, usque ad ter-

minum quem ex nunc duxerit moderandum, firma maneat, stabilis et inconcussa ; dicta autem ordinatio talis est.

Forma regiminis domini regis et regni.

Ad reformationem status regni Angliae eligantur et nominentur tres discreti et fideles de regno, qui habeant auctoritatem et potestatem a domino rege eligendi seu nominandi, vice domini regis, consiliarios novem ; tres ad minus alternatim seu vicissim semper sint in curia praesentes ; et dominus rex, per consilium eorundem novem, ordinet et disponat de custodia castrorum et omnibus aliis regni negotiis : praeficiat etiam dominus rex, per consilium praedictorum novem, justitiarium, cancellarium, thesaurarium, et alios officiales majores et minores, in hiis quae spectant ad regimen curiae et regni. Jurabunt autem primi electores sive nominatores quod secundum conscientiam suam eligent vel nominabunt consiliarios quos credent honori Dei et ecclesiae, domino regi et regno, utiles et fideles. Consiliarii quoque ac omnes officiales, majores et minores, in sua creatione jurabunt quod officia sua pro posse suo, ad honorem Dei et ecclesiae et ad utilitatem domini regis et regni, absque munere, praeter esculenta et poculenta quae communiter in mensis praesentari solent, fideliter exsequentur. Quod si praedicti consiliarii vel aliqui seu aliquis eorum, in administratione sibi commissa, male versati vel versatus fuerint aut fuerit, seu ex alia causa mutandi fuerint, dominus rex per consilium priorum trium electorum seu nominatorum quos amovendos viderit, amoveat, et loco eorum, per eosdem, alios fideles et idoneos subroget et substituat. Si autem officiales majores vel minores in officiis suis male versentur, dominus rex per consilium praedictorum novem ipsos amoveat et alios sine dilatione per consilium praedictorum, loco eorum, substituat. Quod si primi tres electores seu nominatores in electione vel nominatione consiliariorum, aut forte consiliarii in creatione officialium, vel aliis negotiis domini regis et regni gerendis seu disponendis, discordes fuerint, quod a duabus partibus concorditer factum fuerit vel ordinatum firmiter observetur ; dummodo de illis duabus partibus unus sit praelatus ecclesiae in negotiis ecclesiam contingentibus. Et si contingat duas partes dictorum novem in aliquo negotio non esse concordes, de discordia illa stabitur ordinationi primorum trium electorum vel nominatorum aut majoris partis eorundem. Et si videatur com-

munitati praelatorum et baronum concorditer expedire, quod aliqui vel aliquis, loco aliquorum aut alicujus primorum trium nominatorum subrogentur vel substituantur, dominus rex, per consilium communitatis praelatorum et baronum, alios vel alium substituat. Omnia autem praedicta faciat dominus rex per consilium praedictorum novem in forma supradicta, vel ipsi vice et auctoritate domini regis, praesenti ordinatione duratura, donec misa apud Lewes facta, et postea a partibus sigillata, fuerit concorditer consummata; vel alia provisa quam partes concorditer duxerint approbandam. Haec autem ordinatio facta fuit Londoniis de consensu, voluntate et praecepto domini regis, necnon praelatorum, baronum ac etiam communitatis tunc ibidem praesentis. In cujus rei testimonium domini R. Lincolniensis et Hugo Eliensis episcopi, R. comes Norfolciae et Marescallus Angliae; R. de Veer comes Oxoniensis; Humfredus de Bohun, Willelmus de Monte Canisio, et major Londoniensis, signa sua huic scripturae apposuerunt. Actum in parliamento Londoniis, mense Junii A.D. M°CC°LX°IV°.

Item ordinatum est quod status ecclesiae Anglicanae in statum debitum reformetur. Item ordinatum est quod praedicti tres electores et consiliarii, de quibus fit mentio in praedicta ordinatione Londoniensi, et castrorum custodes, et ceteri ballivi domini regis, semper sint indigenae; alienigenae vero pacifice veniant, morentur et redeant; et tam laici in suis possessionibus quam clerici in suis beneficiis residere volentes; mercatores etiam et alii omnes pro suis negotiis procurandis, libere veniant et pacifice commorentur; dum tamen pacifice sine armis et suspecta multitudine veniant, et quod nullus eorum ad aliquod officium vel ballivam in regno vel hospitio domini regis aliquatenus assumatur. Cartae vero libertatum generalium et forestae indigenis a domino rege dudum concessae, et statuta super gravaminum revocationibus, de turnis vicecomitis, sectis curiae et aliis, quae dominus rex anno praeterito in singulis comitatibus per suas litteras patentes fecerat publicari, cum laudabilibus regni consuetudinibus et diutius approbatis, in perpetuum observentur, et provideatur qualiter melius et fortius valeant observari. Item provisum est quod dominus rex et dominus Edwardus baronibus, et hiis qui cum eis steterunt, omnem injuriam et rancorem remittant, ita quod nullum ipsorum, occasione eorum quae facta sunt in turbatione praeterita, gravent vel a suis gravari per-

mittant, et faciant omnes ballivos suos in assumptione ballivae jurare quod nullum occasione praedicta gravabunt, sed omnibus aequaliter justitiam exhibebunt, et provideatur bona securitas quomodo haec omnia firmiter observentur.—(*Foedera*, i. 443.)

No. III. A.D. 1264. *Summons to the Parliament of* 1265.

Henricus, Dei gratia, Rex Angliae, dominus Hiberniae et dux Aquitanniae, venerabili in Christo patri Roberto eadem gratia episcopo Dunelmensi, salutem. Cum post gravia turbationum discrimina dudum habita in regno nostro, carissimus filius Edwardus primogenitus noster pro pace in regno nostro assecuranda et firmanda obses traditus exstitisset, et jam sedata, benedictus Deus, turbatione praedicta, super deliberatione ejusdem salubriter providenda, et plena securitate tranquillitatis et pacis ad honorem Dei et utilitatem totius regni nostri firmanda, et totaliter complenda, ac super quibusdam aliis regni nostri negotiis quae sine consilio vestro et aliorum praelatorum et magnatum nostrorum nolumus expediri, cum eisdem tractatum habere nos oporteat; vobis mandamus, rogantes in fide et dilectione quibus nobis tenemini, quod omni occasione postposita et negotiis aliis praetermissis, sitis ad nos Londoniis in octavis Sancti Hilarii proximo futuris, nobiscum et cum praedictis praelatis et magnatibus nostris quos ibidem vocari fecimus super praemissis tractaturi et consilium vestrum impensuri. Et hoc sicut nos et honorem nostrum et vestrum necnon et communem regni nostri tranquillitatem diligitis nullatenus omittatis. Teste rege apud Wygorniam, XIIII. die Decembris.

The same writ was addressed to the Archbishop of York, the Bishop of Carlisle, the Dean of York, ten abbots and nine priors of the northern province, and to ten bishops and four deans of the southern. A similar one was issued at Woodstock on the 24th of December, to fifty-five abbots, twenty-six priors, the Master of the Temple, and the Prior of the Hospitallers; also to five earls and eighteen barons.

Item mandatum est singulis vicecomitibus per Angliam quod venire faciant duos milites de legalioribus, probioribus et discretioribus militibus singulorum comitatuum ad regem Londoniis in octavis praedictis in forma supradicta.

Item in forma praedicta scribitur civibus Eboraci, civibus Lincolniae, et ceteris burgis Angliae, quod mittant in forma praedicta duos de discretioribus, legalioribus et probioribus tam civibus quam burgensibus.

Item in forma praedicta mandatum est baronibus et probis hominibus Quinque Portuum. . . .—(*Report on the Dignity of a Peer*, App. i. p. 33.)

No. IV. A.D. 1265. *Confirmation of the Charters.*

Rex omnibus de comitatu Eboracensi, salutem. Cum propter hostilem turbationem habitam in regno nostro, de unanimi assensu et voluntate nostra et Edwardi filii nostri primogeniti, praelatorum, comitum, baronum et communitatis regni nostri, pro regni ipsius pace pro cujus securitate dictus Edwardus et Henricus filius regis Alemanniae nepos noster obsides dati fuerunt, concorditer sit provisum, quod quaedam ordinatio de unanimi assensu nostro, praelatorum, comitum ac baronum praedictorum super nostro et regni nostri statu Londoniis, mense Junii anno regni nostri XL°VIII° facta, inviolabiliter observetur, universitatem vestram scire volumus quod nos ordinationem ipsam et pacem et tranquillitatem regni bona fide observare et in nullo contravenire ad sancta Dei evangelia juravimus, hoc adjecto in eodem sacramento specialiter et expresse, quod occasione factorum praecedentium tempore turbationis aut guerrae praecedentis neminem occasionabimus aut inculpabimus de illis aut de parte illorum quos tanquam inimicos diffidavimus, puta comites Leycestriae et Gloucestriae et alios sibi adhaerentes, ac barones seu cives nostros Londoniarum, et Quinque Portuum, nec alicui de praedictis dampnum faciemus aut fieri procurabimus nec per ballivos nostros aliquatenus fieri permittemus. Juravimus insuper quod ea omnia quae pro liberatione dictorum filii nostri ac nepotis sunt provisa et sigillo nostro sigillata, quantum ad nos pertinet, inviolabiliter observabimus et ab aliis pro posse nostro faciemus observari. Volentes et consentientes expresse quod si nos vel dictus Edwardus filius noster contra praedictam ordinationem, provisionem nostram, seu juramentum, quod absit, in aliquo venire, seu pacem et tranquillitatem regni nostri turbare, seu occasione factorum praecedentium tempore turbationis ac guerrae praecedentis, aliquem de praedictis, aut de parte praedictorum quos diffidavimus, occasionare seu alicui de eis dampnum facere aut fieri procurare praesumpserimus, liceat omnibus de regno nostro contra nos insurgere et ad gravamen nostrum opem et operam dare juxta posse ; ad quod ex praesenti praecepto nostro omnes et singulos volumus obligari

fidelitate et homagio nobis factis non obstantibus ; ita quod nobis in nullo intendant sed omnia quae gravamen nostrum respiciunt faciant ac si in nullo nobis tenerentur, donec quod in hac parte transgressum fuerit seu commissum satisfactione congrua in statum debitum, secundum praedictarum ordinationis et provisionis nostrae seu juramenti formam, fuerit reformatum ; quo facto nobis sicut prius intendentes existant. Et si aliquis alius de regno nostro contra praedicta venire seu pacem et tranquillitatem regni nostri turbare praesumpserit, seu nobis vel Edwardo filio nostro aut alicui alteri contra praedicta vel aliquod praedictorum venientibus opem, consilium, consensum, vel auxilium quoquo modo praestiterit, si hoc notorium fuerit aut de hoc per considerationem consilii nostri et magnatum terrae nostrae convictus fuerit, de unanimi assensu nostro, Edwardi filii nostri, comitum, baronum, et communitatis regni nostri, provisum est et statutum quod corpus ipsius, si inventum fuerit, capiatur ; alioquin a regno nostro utlagetur : et sive inventus fuerit sive non, tam ipse quam haeredes sui imperpetuum exhaeredentur ; et de terris et tenementis ipsorum fiat prout de terris eorum qui de felonia convicti sunt secundum leges et consuetudines regni nostri fieri consuevit. Ad haec de unanimi assensu et voluntate nostra, Edwardi filii nostri, praelatorum, comitum, baronum et communitatis regni nostri concorditer provisum est, quod cartae antiquae communium libertatum et forestae, communitati regni nostri per nos dudum concessae, in quarum violatores ad petitionem nostram sententia excommunicationis dudum lata est et per sedem apostolicam specialiter confirmata, necnon et omnes articuli de nostro et magnatum terrae nostrae communi assensu dudum provisi, quos nuper apud Wigorniam existentes per singulos comitatus sub sigillo nostro transmisimus, inviolabiliter observentur imperpetuum : ad quorum observationem sacramento ad sancta Dei evangelia corporaliter praestito sponte nos obligamus ; et omnes justiciarios, vicecomites et quoscunque ballivos de regno nostro tam nostros quam aliorum simili sacramento volumus obligari, ita quod nullus teneatur alicui ballivo obedire donec sacramentum praestiterit. Et si quis contra cartas ipsas vel articulos praedictos in aliquo venire praesumpserit, praeter perjurii reatum et excommunicationis sententiam quae incurret, per considerationem curiae nostrae graviter puniatur ; salvo in praemissis prout decet privilegio clericali. Et quia volumus quod haec

omnia firmiter et inviolabiliter observentur, universitati vestrae firmiter injungendo ac praecipiendo mandamus, quatinus vos omnes et singuli praedicta omnia et singula, sicut superius scripta sunt, faciatis, teneatis et inviolabiliter observetis, et ad ea omnia facienda tenenda et observanda, ad sancta Dei evangelia sacramento corporaliter praestito, ad invicem vos obligetis. In cujus rei testimonium cartas et ordinationes praedictas cum praesentibus litteris patentibus vobis sub sigillo nostro transmittimus in comitatum nostrum sub custodia fidedignorum ad hoc electorum ad rei memoriam salvo custodiendas. Contra quas ne quis ignorantiam praetendere possit in futurum, ad minus bis in anno in pleno comitatu ipsas praecipimus publicari, ita quod fiat prima publicatio in proximo comitatu post instans festum Paschae, secunda vero fiat in proximo comitatu post festum Sancti Michaelis, et sic deinceps fiat annuatim. Volumus insuper quod, salvis omnibus supradictis, omnes aliae ordinationes et articuli per nos et consilium nostrum hactenus provisi, qui poterunt ad honorem Dei et ecclesiae, fidem nostram et regni nostri commodum, observari, inviolabiliter observentur et teneantur. Ut autem praemissa omnia et singula firma maneant et inconcussa, reverendi patres episcopi per regnum constituti ad instantiam nostram sententiam excommunicationis fulminarunt in omnes illos qui contra praemissa vel aliquod praemissorum scienter venerint aut venire temptaverint cum effectu, quorum jurisdictioni seu cohercioni spontanea voluntate quantum ad praemissa nos submittimus ; privilegiis nostris omnibus impetratis aut impetrandis seu proprio motu domini papae nobis concessis aut in posterum concedendis in hoc pure renunciantes, prout in litteris super hoc confectis penes dictos praelatos residentibus plenius continetur. In cujus rei testimonium has litteras nostras fieri fecimus patentes. Teste meipso apud Westm. XIV^to^ die Martii, anno regni nostri XLIX°.—(*Blackstone's Charters*, pp. 74–78.)

No. V. A.D. 1265. *Summons to Parliament at Winchester.*

Rex decano et capitulo Eboracensi, salutem. Cum praelatos et magnates regni nostri jam vocari fecerimus quod sint ad nos apud Wintoniam primo die Junii proximo venturo ad tractandum nobiscum super nostris et regni nostri negotiis quae sine eorum praesentia finaliter expleri nolumus, vobis mandamus in fide et dilectione quibus nobis tenemini, firmiter

injungentes quatenus modis omnibus duos de discretioribus concanonicis vestris ad dictos diem et locum mittatis qui plenam habeant potestatem vice vestra ad tractandum nobiscum una cum praefatis praelatis et magnatibus super negotiis antedictis, et ad ea faciendum nomine vestro quae vos ipsi facere possetis si praesentes ibidem essetis. Et hoc sicut nos et utilitatem regni nostri diligitis nullatenus omittatis. T. R. apud Gloucestriam, XV. die Maii.—(*Report on the Dignity of a Peer*, App. i. p. 36.)

No. VI. A.D. 1266. *Dictum de Kenilworth.*

In Nomine Sanctae et Individuae Trinitatis, Amen. Ad honorem et gloriam omnipotentis Dei Patris et Filii et Spiritus Sancti, et gloriosae et praecelsae Dei Genitricis Virginis Mariae et omnium beatorum quorum in terris meritis et intercessionibus gubernamur ; sacrosanctae Catholicae atque Apostolicae Romanae Ecclesiae quae est omnium fidelium mater et magistra ; sanctissimi patris et domini nostri Clementis ipsius universalis ecclesiae Summi Pontificis ; ad honorem et bonum, prosperum, et pacificum statum Christianissimi principis domini Henrici regis Angliae illustris et totius regni et ecclesiae Anglicanae ; nos vero W. Exoniensis, W. Bathoniensis et Wellensis, N. Wygornensis et R. Menevensis episcopi, Gilbertus de Clare comes Gloucestriae et Hertford, et Humfridus de Bohun comes Herford., P. Basset, Johannes de Baillol, Robertus Walraund, Alanus de la Suche, Rogerus de Someri et Warinus de Bassingbourne, providendi super statum terrae, nominatim super facto exhaeredatorum, habentes a domino rege praedicto et ab aliis baronibus, consiliariis regni, et proceribus Angliae plenariam potestatem, secundum formam conscriptam in litteris publicis sigillis praedictorum regis et aliorum munitis ; ea quidem gratia Divina favente providimus quae secundum juris et aequitatis semitas Dei beneplacito et paci regni putavimus convenire, nullius in hac parte acceptantes personam, sed habentes prae oculis solum Deum, ante omnia igitur tanquam in conspectu Dei Omnipotentis facientes et ex ordine caput membris aptissime praemittentes :

1. Dicimus et providimus quod serenissimus princeps dominus Henricus rex Angliae illustris dominium suum, auctoritatem et regiam potestatem habeat, plenarie obtineat, et libere exerceat sine cujuscunque impedimento vel contra-

dictione per quam contra jura approbata et leges ac regni consuetudines diu obtentas, dignitas regia offendatur ; atque ab universis et singulis majoribus et minoribus ipsius regni hominibus, ipsi domino regi et mandatis ac praeceptis suis licitis plene obediatur et humiliter intendatur. Et omnes et singuli per brevia ad curiam domini regis justitiam petant et in justitia respondeant, sicut ante tempus hujus turbationis hactenus fieri consuevit.

2. Rogamus etiam ipsum dominum regem et ipsius pietati cum reverentia suademus, ut tales ad justitiam faciendam et reddendam proponat, qui non sua sed ea quae Dei et justitiae sunt quaerentes, subjectorum negotia secundum leges et consuetudines regni laudabiles recte componant, et ex hoc roboratum justitia reddant solium regiae majestatis.

3. Rogamus pariter et suademus eidem domino regi ut libertates ecclesiasticas, cartas libertatum et forestae, quas servare et custodire tenetur expresse et proprio juramento, plene custodiat et observet.

4. Provideat etiam dominus rex quod concessiones quas fecit hactenus, spontaneus non coactus, observentur, et alia necessaria quae per suos ex ejus beneplacito sunt excogitata, stabiliat duratura. Et etiam Anglicana ecclesia suis libertatibus et consuetudinibus, quas habuit et habere debuit ante tempus hujusmodi turbationis, plene restituatur et eis uti libere permittatur.

5. Dicimus et providemus ut praefatus dominus rex universis et singulis qui, ab initio praesentis turbationis regni et occasione ipsius usque ad hoc tempus, in ipsum vel in coronam regiam commiserunt injuriam quamlibet vel offensam, et qui ad pacem ipsius venerunt infra xl. dies post publicationem hujusmodi nostrae provisionis, omnino remittat et parcat ; ita quod nullo modo nullaque causa vel occasione propter hujusmodi praeteritas injurias vel offensas, in eosdem offensores ullam exercet ultionem ; aut ipsis poenam vitae, membri, carceris, vel exilii aut pecuniae inferat vel vindictam ; exceptis hiis qui in praesenti nostra provisione inferius continentur.

6. Dicimus etiam et providemus ut omnia loca, jura, res, et alia ad coronam regiam pertinentia, ipsi coronae et domino regi restituantur, per eos qui ea detinent occupata, nisi ostendant se illa per rationabilem warantiam ab ipso domino rege vel a suis antecessoribus possidere.

7. Dicimus etiam et providemus quod universa scripta,

obligationes et instrumenta, quae praefatus dominus rex, vel dominus Edwardus ejus primogenitus, vel alii fideles fecerint, seu exposuerint hactenus, occasione provisionum Oxoniae vel occasione turbationis in regno habitae, ad instantiam quondam Simonis de Monteforti, comitis Leycestriae, et suorum complicium, penitus adnihilentur et cassentur, et pro cassis et pro nullis penitus habeantur. Facta etiam dicti Simonis et complicium suorum praejudicialia et damnosa, et contractus super rebus immobilibus ab eis facti dum essent in suo potentatu, adnihilentur et pro nullis habeantur.

8. Rogantes humiliter tam dominum legatum quam dominum regem ut ipse dominus legatus sub districtione ecclesiastica prorsus inhibeat, ne Simon comes Leycestriae a quocunque pro sancto vel justo reputetur, cum in excommunicatione sit defunctus, sicut sancta tenet ecclesia ; et mirabilia de eo vana et fatua ab aliquibus relata nullis unquam labiis proferantur ; et dominus rex haec eadem sub poena corporali velit districte inhibere. . . .

11. De Londoniis laudamus et praefatum dominum regem hortamur et rogamus, ut ipse provideat per consilium suum de statu reformando civitatis, quoad terras, redditus, dominium et libertates, et hujusmodi provisio cito fiat.

12. Super statu et negotio exhaeredatorum, inter cetera quae ordinavimus et statuimus, volentes secundum Deum et aequitatis tramitem incedere, ita duximus providendum, de assensu venerabilis patris O. Sancti Adriani diaconi cardinalis et apostolicae sedis legati et nobilis Henrici de Alemannia similiter habentium potestatem, quod non fiat exhaeredatio sed redemptio, videlicet, quod incipientes guerram et perseverantes usque nunc ; item violenter et malitiose detinentes Norhampton contra regem ; item expugnantes et debellantes regem apud Lewes ; item capti apud Kenilworth qui venerunt de praedatione Wyntoniae, vel alibi fuerint contra regem, quibus rex non remisit ; item bellantes apud Evesham contra regem ; item qui fuerunt apud Cestrefeud contra regem in bello ; item qui gratis et voluntarie et non coacti miserunt servitia sua contra regem vel filium ejus ; item ballivi et ministri comitis Leycestriae qui vicinos depraedati sunt, et homicidia, incendia et mala alia procurarunt ; — solvent quantum valet terra eorum per quinque annos ; et si isti solvant redemptionem, rehabeant terras suas, ita quod, si terra vendi debeat, nullus eam habeat nisi ille qui eam tenet ex

dono domini regis, si tantum velit dare quam quilibet communiter emens, et eisdem terminis ; similiter si ad firmam debeat dari, nullus sit propinquior eo qui eam tenet ex dono domini regis, si tantum velit dare quam quilibet alius pro eo ad firmam velit dare, et eisdem terminis habeat ; similiter satisfaciens pro tota terra habeat totam, pro medietate medietatem habeat, et pro tertia parte statim tertiam partem habeat. Quod si ultimo termino statuto redimens non satisfecerit, medietas terrae remanentis remaneat illis quibus terrae collatae sunt per dominum regem ; liberum autem sit redimenti infra illum terminum vendere totum vel partem terrae secundum formam venditionis superius annotatam, et similiter ad firmam tradere. . . .

14. Item comes de Ferrariis puniatur quantum valet terra sua per vii. annos, et milites et armigeri qui fuerunt praedones, et cum principalibus praedonibus in bellis et depraedationibus, si non habeant terras et habeant bona, solvant pro redemptione sua medietatem bonorum suorum, et inveniant fidejussionem competentem quod pacem regis et regni amodo conservabunt. Qui vero nihil habuerint veniant et jurent ad sancta Dei evangelia, et inveniant fidejussionem competentem quod pacem regis et regni amodo servabunt, et subeant satisfactionem competentem et poenitentiam secundum judicium ecclesiae, exceptis bannitis quibus solus rex potest remittere. . . .

17. Omnes de castro sint in communi via et forma pacis, exceptis Henrico de Hastinges, et mutilatoribus nuncii domini regis ; qui vii. annis puniantur vel in misericordia domini regis se ponant. . . .

20. Si aliquis sit de quo timetur quod velit guerram facere seu procurare, provideant se domini legatus et rex securitatem quam viderint expedire, mittendo extra regnum ad tempus vel aliter sicut expedire viderint ; ita tamen quod, si contingat illum impediri a solutione suae redemptionis, propter hoc non exhaeredetur.

21. Si aliquis non sit contentus ista provisione, subeat judicium in curia domini regis infra festum Sancti Hilarii ; extra regnum vero existens habeat inducias transmarinas secundum legem et consuetudinem terrae, ita tamen quod teneat se in pace, aliter non sit in forma pacis.

22. Quia rex tenetur multis qui eum juverunt et ei fideliter affuerunt, quibus de terris non providit, et quidam plus habent quam habere debent, provideat dominus rex de redemptione

capienda quod abundanter eos respiciat, ne sit materia novae guerrae.

23. Provideant etiam se domini legatus, rex, et Henricus de Alemannia, quod eligant xii. qui ista diligenter et fideliter exsequantur, et illa faciat dominus rex et haeredes sui firmiter observari et manuteneri. Isti inquirant et compleant quae a supradictis xii. electis sunt ordinata, secundum formam ordinationum quae jam factae sunt; sin autem, faciant aestimationes rationabiles et veraces secundum quod xii. providebunt executores. . . .

26. Laici manifeste procurantes negotia domini comitis et complicium suorum, attrahendo homines per mendacia, per falsitates instigando parti comitis et complicium suorum, et detrahendo partem domini regis et filii sui, puniantur quantum valet terra eorum per duos annos.

27. Coacti vel metu ducti qui venerunt ad bellum, qui non expugnaverunt nec malum fecerunt; impotentes qui vi vel metu miserunt servitia sua contra regem vel filium suum; coacti vel metu ducti qui fuerunt praedones et cum principalibus praedonibus depraedationes fecerunt, et quando commode poterant, a praedationibus cessaverunt et ad domos suas redierunt, existentes in pace, redimantur quantum valet terra eorum per unum annum. . . .

Datum et publicatum in castro apud Kenilworthe, pridie kalendas Novembris anno gratiae M° CC° LX° VI°, regni vero domini Henrici regis Angliae anno quinquagesimo primo.—(*Statutes of the Realm*, i. 12–17.)

Extracts from Bracton,

De Legibus et Consuetudinibus Angliae.

The law-book of Henry of Bracton (or Bratton, as the name is more correctly spelled) was mainly compiled between the years 1250 and 1258. The author was a royal justice, intimately acquainted with the procedure of Eyres, and of the Coram Rege court, which was later to be known as the King's Bench. His treatise is in the main an exposition of the common law; that is, of the law deducible from the decisions of royal courts. Statutory legislation was still an occasional expedient, and problems of the highest constitutional importance were

settled by the judges, arguing, as Bracton says, *a similibus ad similia*. The leading cases upon which Bracton founded his generalizations are contained in the compilation known as *Bracton's Notebook* (ed. F. W. Maitland, 1887). The treatise from which our extracts are taken has been edited for the Rolls Series by Sir Travers Twiss. But our text is based upon one of the best of the existing manuscripts (Bodleian, Rawlinson C 160). Our extracts are intended to illustrate the value of Bracton as a source of constitutional history. They relate to the common law, the royal prerogative, private franchises, the duties of judges and coroners, the police system, the rights of villeins, and the jurisdiction of the courts Christian.

Bk. I. c. 1. Cum autem fere in omnibus regionibus utantur legibus et jure scripto, sola Anglia usa est in suis finibus jure non scripto et consuetudine. In ea quidem ex non scripto jus venit quod usus comprobavit. Sed non erit absurdum leges Anglicanas (licet non scriptas) leges appellare, cum legis vigorem habeat, quicquid de consilio et assensu magnatum et reipublicae communi sponsione, auctoritate regis sive principis praecedente, juste fuerit diffinitum et approbatum. Sunt autem in Anglia consuetudines plures et diversae, secundum diversitatem locorum. Habent enim Anglici plurima ex consuetudine quae non habent ex lege ; sicut in diversis comitatibus, civitatibus, burgis et villis, ubi semper inquirendum erit, quae sit illius loci consuetudo, et qualiter utantur consuetudine qui consuetudines allegant.

Bk. I. c. 2. Si autem aliqua nova et inconsueta emerserint, et quae prius non fuerint usitata in regno, si tamen similia evenerint per simile judicentur, cum bona sit occasio a similibus procedere ad similia. Si autem talia prius nunquam evenerint, et obscurum et difficile sit eorum judicium, tunc ponantur judicia usque ad magnam Curiam, ut ibi per consilium Curiae terminentur.

Bk. I. c. 8. Ipse autem rex non debet esse sub homine, sed sub Deo et sub lege quia lex facit regem. . . . Non est enim rex ubi dominatur voluntas et non lex. . . . Non debet esse major eo in regno suo in exhibitione juris ; minimus autem esse debet, vel quasi, in judicio suscipiendo, si petat. Si autem ab eo petatur (cum breve non currat contra ipsum) locus erit

supplicationi, quod factum suum corrigat et emendet, quod quidem si non fecerit, satis sufficit ei ad poenam quod Dominum expectet ultorem.

Bk. II. c. 5. Sunt et aliae res, quasi sacrae, quae personam regis respiciunt et ad aliquem transferri non poterunt nisi justiciariis domini regis, sicut visus franci plegii, placita de vetito namii, emendatio transgressionis assisarum, judicium latronum . . . et hujusmodi omnia quae pertinent ad pacem et per consequens ad coronam.

Bk. II. c. 16. De chartis vero regiis et factis regum non debent nec possunt justiciarii nec privatae personae disputare ; nec etiam si in illis dubitatio oriatur possunt eam interpretari ; etiam in dubiis et obscuris . . . domini regis erit expectanda interpretatio et voluntas, cum ejus sit interpretari cujus est condere. . . . [Item nec] factum regis nec chartam potest quis judicare, ita quod factum domini regis irritetur.

Bk. II. c. 24. Ea vero quae jurisdictionis sunt et pacis, et ea quae sunt justiciae et paci annexa, ad nullum pertinent nisi tantum ad coronam et dignitatem regiam. Nec a corona separari poterunt cum faciant ipsam coronam. Est enim corona facere justiciam et judicium et tenere pacem et sine quibus corona consistere non poterit nec tenere. Hujusmodi autem jura sive jurisdictiones ad personas vel tenementa transferri non poterunt nec a privata persona possideri, nec usus nec executio juris, nisi hoc ei datum fuerit desuper sicut jurisdictio delegata. Nec delegari poterit quin ordinaria remaneat cum ipso rege.

Bk. III. Pt. i. c. 9. Nihil enim aliud potest rex in terris, cum sit Dei minister et vicarius, nisi id solum quod de jure potest ; nec obstat quod dicitur, ' Quod principi placet, legis habet vigorem' ; quia sequitur in fine legis . . . non quicquid de voluntate regis temere praesumptum est, sed animo condendi jura ; sed quod consilio magistratuum suorum, rege auctoritatem praestante et habita super hoc deliberatione et tractatu, recte fuerit diffinitum.

Bk. III. Pt. i. c. 10. Item justiciariorum quidam sunt capitales, generales perpetui et majores a latere regis residentes, qui omnium aliorum corrigere tenentur injurias et errores. Sunt etiam alii perpetui, certo loco residentes, sicut in Banco, loquelas omnes de quibus habent warantum terminantes. . . . Item sunt alii itinerantes de loco in locum, sicut de comitatu in comitatum, quandoque ad omnia placita, quan-

doque ad quaedam specialia, sicut ad assisas tantum et gaiolas. . . . Sunt etiam justiciarii constituti ad quasdam assisas, duas vel tres vel plures, qui quidem perpetui non sunt.

Bk. III. Pt. ii. c. 5. . . . Est igitur eorum [coronatorum] officium quod, quam cito habuerint mandatum a ballivo domini regis vel a probis hominibus illius patriae, accedere debent ad occisos sive ad vulneratos, sive ad submersos vel subito mortuos, et ad domorum fractiones, et ad locum ubi dicitur thesaurum fuisse inventum; et hoc facere debent statim et sine mora aliqua; et in adventu ipsorum versus partes illas mandare debent quatuor vel quinque vel sex villis vicinis, quod statim veniant coram ipsis; et per eorum sacramentum faciant inquisitionem. . . .

Bk. III. Pt. ii. c. 9. . . . Cum vero clericus, cujuscunque ordinis vel dignitatis, captus fuerit pro morte hominis vel alio crimine et imprisonatus, et de eo petatur curia Christianitatis ab ordinario loci, sicut archiepiscopo vel episcopo vel eorum officiali, vel aliis literas praedictorum deferentibus, imprisonatus ille statim eis deliberetur sine aliqua inquisitione inde facienda. . . . Satis enim sufficit ei pro poena degradatio, quae est magna capitis deminutio, nisi forte convictus fuerit de apostasia, quia tunc primo degradetur et postea per manum laicalem comburatur; secundum quod contigit in concilio Oxoniae celebrato a bonae memoriae Stephano Cantuariensi archiepiscopo, de quodam diacono qui se apostatavit pro quadam Judaea. . . .

Bk. III. Pt. ii. c. 10. . . . Sed quia sunt quidam qui statim fugiunt post feloniam et capi non possunt, statim post tales levetur hutesium et fiat post eos secta de villa in villam, quousque malefactores capiantur; alioquin tota villata in misericordia regis remanebit. . . . De eo autem qui sic fugam cepit diligenter inquirendum erit si fuerit in franco plegio et decenna, et tunc erit decenna in misericordia coram justitiariis quia non habent ipsum malefactorem ad rectum. . . . Si autem extra francum plegium fuerit talis in aliqua villa receptatus, erit villata in misericordia, nisi talis sit ille qui fugit quod in decenna et franco plegio esse non debeat: ut magnates, milites et eorum parentes, clericus, liber homo et hujusmodi secundum consuetudinem patriae; et quo casu tenebitur ille, in quibusdam partibus, de cujus fuerint familia et manupastu, et pro eis respondebit, nisi consuetudo patriae aliud inducat. . . .

Bk. III. Pt. ii. c. 36. . . . De plagis vero et verberibus sibi factis, habent ipsi [servi] actionem et non dominus. Habent enim servi personam standi in judicio contra omnes de injuriis sibi factis, contra pacem domini regis. . . . Habent etiam servi personam standi in judicio contra dominos suos de seditione regis et aliis quae sunt contra personam ejus, quibus admittitur quilibet de populo; et contra dominum suum de atroci injuria, ubi agitur de vita vel membris vel roberia.

Bk. IV. c. 28. Item tenementorum aliud villenagium et villenagiorum aliud purum, aliud privilegiatum. Purum autem villenagium est quod sic tenetur, quod ille qui tenet in villenagio, sive liber sive servus, faciet de villenagio quicquid ei praeceptum fuerit, nec scire debeat sero quid facere debeat in crastino, et semper tenebitur ad incerta. Talliari autem potest ad voluntatem domini ad plus vel ad minus. Item dare merchetum pro filia maritanda et ita semper tenebitur ad incerta; ita tamen quod, si liber homo sit, hoc faciat nomine villenagii et non nomine personae, nec etiam tenebitur ad merchetum de iure, quia hoc non pertinet ad personam liberi sed villani. Si autem villanus fuerit omnia faciat et incerta tam ratione villenagii quam personae. Nec liber homo, si sic tenuerit, contra voluntatem domini villenagium retinere poterit, nec ipse compelli quod retineat nisi velit. . . . Est etiam aliud genus villenagii quod tenetur de domino rege a conquestu Angliae, quod dicitur socagium villanum et quod est villenagium, sed tamen privilegiatum. Habent itaque tenentes de dominicis domini regis tale privilegium, quod a gleba amoveri non debent, quamdiu velint et possint facere debitum servitium, et hujusmodi villani socmanni proprie dicuntur glebae ascripticii. Villana autem faciunt servitia sed certa et determinata. Nec compelli poterunt contra voluntatem suam ad tenenda hujusmodi tenementa, et ideo dicuntur liberi. Dare autem non possunt tenementa sua, nec ex causa donationis ad alios transferre, non magis quam villani puri; et unde si transferri debeant, restituunt ea domino vel ballivo, et ipsi ea tradunt aliis in villenagium tenenda.

Bk. V. Pt. v. c. 2. Est etiam jurisdictio quaedam ordinaria, quaedam delegata, quae pertinet ad sacerdotium et forum ecclesiasticum, sicut in causis spiritualibus et spiritualitati annexis . . . quia non pertinet ad regem injungere poenitentias nec ad judicem saecularem; nec etiam ad eos pertinet

cognoscere de iis quae sunt spiritualibus annexa, sicut de decimis et aliis ecclesiae provenientibus. Item nec de catallis quae sunt de testamento vel matrimonio. Item nec de pecunia promissa ob causam matrimonii. . . . Vice versa non est laicus conveniendus coram judice ecclesiastico de aliquo quod pertineat ad coronam et regiam dignitatem et ad regnum . . . sicut nec de laico feodo vel ejus pertinentiis . . . nec debitis nec catallis, nisi sunt de testamento vel matrimonio.

PART VII

SELECT CHARTERS AND EXCERPTS; *Edward I*

A.D. 1272–1307

ARCHBISHOPS OF CANTERBURY: Robert Kilwardby, 1273–1278; John Peckham, 1279–1292; Robert Winchelsey, 1294–1313. CHIEF JUSTICES OF THE KING'S BENCH: Ralph de Hengham, 1273–1289; Gilbert de Thornton, 1289–1295; Roger Brabazon, 1295. CHANCELLORS: Walter de Merton, 1272; Robert Burnell, 1273–1292; John Langton, 1292; William Greenfield, 1302; William of Hamilton, 1304; Ralph Baldock, 1307.

No prince ever came to the English throne better qualified to rule strongly and well than Edward I. He had benefited by early experience, by intercourse with great men, by much knowledge of the world outside of England, and by the warnings and examples of his father's reign. His own personal character was high, pure, and true. The part which he had taken in English politics before his accession was settled for him by circumstances rather than by choice. He had more than once revolted in disgust from the foolish falseness of Henry, and it was only when he found that he must not expect even bare justice from the reforming party that he threw himself heart and soul upon his father's side. From the temperament of the Angevin family he was nearly free: a tendency to legal captiousness does, however, present itself to view in many of his most important transactions, a flaw inherent in the very turn of his mind, brought into prominence, moreover, by the condition of the age and by the character of his advisers.

The age of the lawyers was coming in: Edward's great advisers were lawyers rather than clerks and bishops: the great men who were his examples were, like Lewis IX, Frederick II, and Alfonso the Wise, framers of laws and constitutions: the great distinguishing mark of his reign in

English history is legal definition. Legal chicanery was the most characteristic sin of the Angevin house: and a disposition to take advantage of the letter of the law marks the greatest errors of Edward's own policy—his severities in Wales, his assumptions in Scotland, and especially the arbitrary measures by which he placed himself in such a position as to be obliged to confirm and extend the provisions of the Great Charter.

The temper of the age was in itself a temptation to this: the period lies midway between the prolific premature life of the early thirteenth century and the splendid formal hollowness of the fourteenth. The principles and policy which had been springing up in the first half were being clothed in forms and hardened into definitions: fifty years more would see the forms stronger and the definitions harder still, but the life, the genius, the spirit of all, fainting and wearing out under the incubus of false chivalry, cruel extravagance, and the lust of war.

In every branch of administration the process of definition goes on, almost uniformly. Parliament, convocation, the central courts of law, the provincial jurisdictions, take their permanent historic forms: the theory of representation, so long in the process of crystallization, becomes fixed in the assemblies of both Church and State. The Courts of King's Bench, Exchequer, and Common Pleas take each to itself a distinct staff of judges and a distinct sphere of work.[1] The administration of justice in the shires is completed and made symmetrical by a long series of statutes. The relations of Church and State are not indeed settled, but a strong effort is made to reduce them to order, by defiance of Rome, by the act of Mortmain, by the summoning of the clergy to parliament, and by securing representation in the church assemblies. In taxation, in legislation, in the administration of justice and

[1] The evidence concerning the evolution of these courts is stated and discussed by W. S. Holdsworth, *History of English Law*, vol. i, c. 3 (1903).

police, the same tendency is visible: a tendency in the age which produced other legislators besides Edward, and which brought out the weakness of other kings who, like Philip the Fair, had none of Edward's merits: a tendency which, in Edward's case, falls in with the genius of the man, giving prominence to both his virtues and his faults.

The first half of the reign was occupied with legislation and with the war in Wales, the second with constitutional development and war with France and Scotland. The two features common to both periods are war and financial difficulties: the latter owing, of course, in some measure to the former, but largely increased by the evils of the late reign, the impoverishment of the crown, and the ignorance on the part of both government and people of what may be by anticipation called the principles of political economy. Edward's expedients for the raising of money are most diversified: the petition for thirtieths, twentieths, fifteenths, twelfths, elevenths, tenths, ninths, eighths, sevenths, sixths, fifths, thirds, runs up the whole scale of fractions, reaching the climax in the demand of a half of clerical revenue, or rather perhaps in the seizure of all the wool. When direct request for a subsidy is hopeless, he falls back on the old feudal aids, his daughter to be married, or his son to be knighted; or the scutage; or respite of distraint of knighthood, itself an expansion of the scutage system; or an increase in the customs; or, last and meanest, a revival of the almost forgotten tallage on demesne. It is true that during great part of the reign these taxes were light, for it is only from 1290 to 1297 that there is any pretence of severe exaction; that they were taken with scrupulous regard to the legal letter of royal obligations: and that Edward's own outlay was moderate, and free, as far as possible, from personal extravagance. But they were irritating and confusing to the people, and contributed one chief ingredient towards the troubled atmosphere of the reign. Of the wars which contributed the other, it is unnecessary to speak here.

The legislation of Edward I was in some respects a consolidation of the principles which had been brought into organized working by Henry II. The Statute of Winchester bears this relation to the Assize of Arms; the Statute of Mortmain to the Constitutions of Clarendon; the distraint of knighthood to the system of scutage; the statute *Quia Emptores* to the antifeudal measures, and the arrangements of the courts of law to the numerous judicial devices, of the first Angevin king. Most of these were indeed rooted in a far more distant past; but Henry nursed them into life after a long winter of tyranny, and Edward pruned and trained them after the neglected luxuriance of a premature summer.

Up to the reign of Edward I every document belonging to every branch of administration has a constitutional value. After this reign much that has had historical interest becomes merely archaeological. This is owing in part to the permanence of the type defined under this king, and in part to the permanent distribution of the system which he and his advisers arranged in the different departments of work: the definition of each part, and the definition of each function, of the machine of state. For instance, the ordinary courts of law, the practice of trial by jury, the organization of national defence and police, cease to have the direct bearing on constitutional history which they have had: and the name of 'constitutional' becomes restricted to the parliamentary history and to the departments of state which exist in close dependence upon or in temporary rivalry with it. In the political history the result of the same process is to produce local and personal partisanships rather than political parties. The struggles of the succeeding century are not about the framework of the constitution, but about the management of it: the vessel is complete, but the helm is contested by Royalists and Lancastrians; by men of the south and men of the north; supporters of the court and prerogative, and supporters of the old liberties, the natural opposition.

Excerpts.

A. D. 1273. Ann. Winton. p. 113. Hoc anno, scilicet post festum Sancti Hilarii, facta convocatione omnium praelatorum et aliorum magnatum regni apud Westmonasterium, post mortem illustris regis Henrici, convenerunt archiepiscopi et episcopi, comites et barones, abbates et priores, et de quolibet comitatu quatuor milites et de qualibet civitate quatuor, qui omnes in praesentia dominorum W. scilicet archiepiscopi Eboracensis, R. de Mortuomari, et R. Burnell clerici, qui in loco domini Edwardi regis Angliae praefuerunt, sacramentum eidem domino Edwardo tanquam terrae principi praestiterunt, et de pace regni fideliter et firmiter custodienda praeceptum susceperunt ; ubi dominus Walterus de Mertona cancellarius constitutus est, et ut moram trahat apud Westmonasterium, tanquam in loco publico, usque ad adventum principis ; et ubi provisum est quod nulli sint justitiarii itinerantes usque ad adventum principis, sed in banco.

A. D. 1274. Ann. Winton. p. 118. Hoc anno dominus Edwardus rex Angliae de Terra Sancta et de Wasconia reversus, secunda die mensis Augusti in Angliam applicuit apud Doroberniam, et die Dominica proxima post Assumptionem Beatae Mariae Virginis, per impositionem manuum R. archiepiscopi Cantuariensis de ordine Praedicatorum, unctus est in regem et coronatus apud Westmonasterium, praesente domino rege Scotiae et multis aliis.

Articles of enquiry, Oct. 11, 1274 : Rotuli Hundredorum, p. xiii. Rex dilectis et fidelibus suis Ricardo de Fukeram et Osberto de Bereford salutem. Sciatis quod assignavimus vos ad inquirendum per sacramentum proborum et legalium hominum de comitatibus Salopiae, Stafford et Cestriae de quibusdam juribus, libertatibus et rebus aliis nos et statum nostrum necnon et statum communitatis comitatuum praedictorum contingentibus, et insuper de factis et gestibus vicecomitum et ballivorum quorumcumque, prout in articulis quos vobis inde tradidimus plenius continetur. . . . Simili modo inquiratur . . . qui . . . a Rege clament habere returnum vel extractas brevium, et qui teneant placita de vetito namio, et qui clament habere wreccum maris quo warranto et alias libertates regias, ut furcas, assisas panis et cervisiae, et alia quae ad coronam pertinent, et a quo tempore. De iis etiam qui habent libertates per reges Angliae sibi concessas, et eas

aliter usi fuerint quam facere debuissent, qualiter a quo tempore et quomodo. Item de libertatibus concessis quae impediunt communem justiciam et regiam potestatem subvertunt, et a quo concessae fuerint et a quo tempore. . . .

A.D. 1275. ANN. WINTON. p. 119. In quindena Paschae quae fuit in principio mensis Maii, facta communi convocatione omnium magnatum regni, tenuit dominus rex Edwardus magnum parliamentum suum apud Westmonasterium, ubi quamplures de regno, qui aliqua feoda de corona regia tenuerunt, ea dicto domino regi reddiderunt, compositione tamen facta cum quibusdam ut ea tenere valeant quoad vitam. In quo parliamento de assensu communi quasdam novas leges constituit observandas ad communem utilitatem totius regni.

ANN. WINTON. p. 119. Item mense Octobris circa festum Sancti Lucae Evangelistae, iterum tenuit ibidem aliud magnum parliamentum in quo quidem alias leges constituit inter Judaeos observandas, ubi de communi assensu archiepiscoporum, episcoporum, comitum et baronum, concessum fuit dicto domino regi quintum decimum quorundam bonorum laicorum omnium possessionum regni Angliae in subsidium, causa suae novitatis, ut a quibusdam dicebatur.

CLOSE ROLLS, Oct. 24. . . . Praelati, comites, barones et alii de regno nostro, quintam decimam de omnibus bonis mobilibus, ad relevationem status nostri, nobis concesserint gratiose. . . .

A.D. 1276. ANN. WAVERL. p. 386. Post Pascha, ad parliamentum Westmonasterii multis proceribus regni congregatis, rex pacem suam exhaeredatis concessit. In quo parliamento quintam decimam omnium bonorum temporalium tam clericorum quam laicorum, inaudito more ad unguem taxatam, rex jusserat levari et confiscari. . . . Item in eodem parliamento concessit dominus rex et demandavit per totum regnum Angliae quod cartae de communibus libertatibus et de forestis in suo robore permanentes ab omnibus per omnia observarentur.

ANN. WINTON. p. 120. Praeterea cum anno praecedenti concessum fuerit domino regi quintum decimum omnium bonorum laicorum in regno, dictus dominus rex, pauperibus parcere volens, ordinavit et statuit ut qui ad valentiam xv. solidorum non habent in bonis ad hujusmodi contributionem nullatenus compellerentur.

A.D. 1277. FLORES HISTORIARUM, iii. p. 48. In quindena

Paschae rex recedens a Westmonasterio versus Walliam properavit cum omni militari servitio terrae suae Angliae, barones de scaccario et justitiarios de banco usque Salopesburiam secum ducens.

Ann. T. Wykes, p. 274. Rex utique reversus de Wallia cepit de quolibet feodo militis per regnum xl. solidos pro scutagio, illis dumtaxat quietis a solutione scutagii, qui secum in Wallia personaliter vel per substitutos idoneos militabant.

A. D. 1278. Chron. W. Rishanger, p. 93. Tenuit rex parliamentum Gloverniae in octavis Sancti Johannis Baptistae, in quo edita sunt statuta quae ' de Glovernia ' appellantur.

Ann. Waverl. p. 390. Item in medio mensis Octobris dominus Eadwardus rex tenuit magnum parliamentum apud Westmonasterium, ubi dominus rex Scotiae venit et homagium dicto domino regi Angliae fecit.

A. D. 1279. Ann. Waverl. p. 391. Johannes de Peccham archiepiscopus Cantuariensis . . . iii. kalendas Augusti facta convocatione quorundam episcoporum comprovincialium apud Radinges, quaedam generalia statuta promulgavit observanda.

Ann. Osney, p. 286. In quodam parliamento facto apud Londoniam circa festum Omnium Sanctorum, rex instanter petiit a clero Angliae quintam decimam bonorum suorum in subsidium quod, uti praetactum est, a populo regni sui nuper extorsit, ut esset *clerus sicut et populus*. Archiepiscopus autem Eboracensis cedens petitioni regiae pro se et pro clero suae metropolis quintam decimam per duos annos primus concessit. Cantuariensis aliquantulum ut poterat rebellando, responsum suum super hoc usque in parliamentum post Pascha posuit in suspenso, et tunc regis instantia coercitus pro se et clero suo decimam trium annorum domino regi concessit.

A. D. 1280. Wilkins, *Conc.* ii. 42. Clerici diocesis Eboracensis excepto archidiacono Richmundiae . . . concedunt . . . decimam beneficiorum suorum ecclesiasticorum secundum taxationem Norwycensem prius factam . . . per duos annos duntaxat.

Ib. Clerus nostrae provinciae (sc. Cantuariensis) . . . concesserit domino regi quintam decimam bonorum suorum . . . per tres annos solvendam.

Ann. Waverl. p. 392. Dominus rex de consilio quorundam pontificum et baronum statuit quod religiosae personae de cetero in acquisitione terrarum seu reddituum non crescerent. . . .

A. D. 1281. Ann. Osney, p. 285. Nonis Octobris . . . J. Cantuariensis archiepiscopus convocatis universis episcopis, abbatibus, prioribus, ac universis praelatis et clericis suae metropolis, apud Lamheye sollemne concilium celebravit; in quo constitutiones Ottonis et Ottoboni . . . innovavit et in posterum inviolabiliter observandas fore decrevit. . . . In eodem concilio proposuerat quasdam libertates ad coronam domini regis spectantes et a multis retroactis temporibus usitatas annullare, videlicet cognitionem juris patronatus, prohibitiones regias in placitis de catallis et hujusmodi quae spiritualitatem mere contingere videbantur; cui rex per quosdam de suis in eodem concilio publice se opposuit, et intentando minas inhibuit ne quid statuere praesumeret in praejudicium seu depressionem regiae libertatis. Unde factum est ut territus archiepiscopus a sua praesumptione resiliret.

A. D. 1282. Ann. Osney, p. 288. Convocatis regni magnatibus statuit parliamentum suum apud Wigorniam in festo Nativitatis Sancti Johannis Baptistae. . . .

Ann. Waverl. p. 399. Item hoc anno clerus et populus primo quintam decimam, et postmodum tricesimam, bonorum suorum domino regi concesserunt.

A. D. 1283. Ann. Dunstapl. p. 294. Statim post Pascha bona omnium eorum, qui habebant ultra dimidiam marcam in catallis, per duodecim juratos de visneto suo taxabantur pro tricesima domino regi concessa: et tunc bona nostra extra burgum cum aliis sunt taxata: et bona infra curiam per burgenses; at tamen moderate. Postea taxatio praedicta revocata fuit per breve domini regis quoad viros religiosos et quoad mercatores qui alias dominum regem nomine mutui adjuvarunt ad guerram contra Wallenses. Eisdem anno et tempore nomine domini regis petita est a clero decima de omnibus proventibus ecclesiasticis per triennium . . . in subsidium guerrae suae contra Walliam. Archiepiscopus Cantuariensis habuit super hoc tractatum Londoniae cum coepiscopis suis, praelatis omnibus, atque clero, ubi a procuratoribus totius cleri fuit manifeste contributioni hujusmodi contradictum.

Ann. Osney, p. 294. Circa festum Sancti Michaelis rex, convocatis regni sui magnatibus et majoribus civium Angliae apud Salopesbyriam, tenuit ibi parliamentum suum et adduci fecit illuc David qui apud Rothelan fuerat captivatus: ibique

per considerationem magnatum ibidem congregatorum, pensatis impietatis suae meritis, judicialiter adjudicatus est morti.

CHRON. W. DE HEMINGBURGH, ii. 14. Post festum Sancti Michaelis tenuit idem rex parliamentum suum apud Actone Burnel ubi fecit statutum sic vocatum.

STAT. DE MERCATORIBUS. *Preamble.* Le rei par luy e par sun conseil ad ordine e establi. . . .

A. D. 1284. STATUTA WALLIAE (ed. *Stat. of the Realm,* i. p. 55). Nos itaque . . . leges et consuetudines partium illarum (sc. Walliae) hactenus usitatas coram nobis et proceribus regni nostri fecimus recitari. Quibus diligenter auditis et plenius intellectis quasdam ipsarum de consilio procerum praedictorum delevimus, quasdam permisimus, et quasdam correximus ; et etiam quasdam alias adjiciendas et statuendas decrevimus. . . . Providimus et decernendo statuimus quod Justiciarius Snaudoniae habeat custodiam et gubernationem pacis nostrae regiae in Snaudonia et terris nostris Walliae adjacentibus, et justiciam exhibeat quibuscumque. . . . Volumus etiam et statuimus quod vicecomites, coronatores et ballivi commotorum sint in Snaudonia et terris nostris Walliae adjacentibus.

A. D. 1284. ANN. OSNEY, p. 299. Ante festum Nativitatis Dominicae rex Angliae . . . ad partes rediit Anglicanas et fuit Bristollis in eodem festo Natalis. Quo expleto, convocatis quibusdam de magnatibus, singulare, non generale, tenuit parliamentum. . . .

A. D. 1285. ANN. OSNEY, p. 304. In quindena Paschae convocatis proceribus regni rex cum majoribus et peritioribus de statu regni diffusum coepit habere tractatum ; protractoque parliamento usque ad Nativitatem Sancti Johannis Baptistae, edidit quaedam statuta toti regno pernecessaria. . . .

STATUTES OF THE REALM, i. 71. *Stat. Westm.* ii. *Preamble.* . . . Dominus rex, in parliamento suo post Pascha anno regni sui tertio decimo apud Westmonasterium, multas oppressiones et legum defectus, ad suppletionem praedictorum statutorum apud Gloucestriam editorum, recitari fecit et statuta edidit.

STATUTES OF THE REALM, i. 104. Supplicabant domino regi in parliamento suo apud Westmonasterium post Pascha, anno regni sui xiii., plures de regno suo, tam praelati, viri religiosi et aliae personae ecclesiasticae, quam comites et barones et ceterae personae saeculares seu laicae, ut idem dominus rex cartas a progenitoribus suis regibus Angliae vel ab aliis concessas

praedecessoribus seu antecessoribus ipsarum personarum, et eis, de sua gratia confirmaret ; unde idem dominus rex habito super hoc cum suo consilio tractatu, concessit quod confirmationes cartarum illarum fiant. . . .

Ann. Dunstapl. p. 317. Scutagium etiam pro Wallia ibidem generaliter per totam Angliam est concessum.

A. D. 1286. Ann. Osney, p. 306. In quindena Paschae facta est per regis evocationem congregatio maxima magnatum totius regni, tam saecularium personarum quam ecclesiasticarum, apud Londoniam ad tractandum de regni regimine. . . . Rex . . . committens regni sui custodiam Edmundo comiti Cornubiae, circa festum Ascensionis Dominicae transfretavit in Galliam.

A. D. 1289. Ann. Osney, p. 316. Circa Purificationem Beatae Virginis convocatis edicto publico apud Londoniam regni magnatibus, episcopus Eliensis domini regis thesaurarius de mandato regis, ut dicebat, petiit a comitibus et baronibus, immo etiam generaliter ab universis incolis regni, subsidium ad opus regis, ad sublevationem expensarum quas triennio jam elapso fecerat in partibus Gallicanis. At illi ponentes responsum in ore comitis Gloucestrensis, praecise respondebant se nihil penitus praestituros, nisi prius personaliter viderent in Anglia faciem regis ; thesaurarius, prospiciens se nihil posse proficere, coepit talliare civitates et burgos et dominica regis per totum regnum, imponens eis intolerabilem pecuniae quantitatem, statuto tempore persolvendam.

Ann. Waverl. p. 408. Cito post parliamento apud Westmonasterium omnium procerum convocato, omnes justitiarios ab officiis suis amovit ac animadversione condigna secundum demerita corripuit et punivit.

Bartholomew Cotton, p. 173. Justitiarii praedicti omnes finem fecerunt domino regi . . . et ita interveniente mammona iniquitatis, pax inter ipsos et regem reformata est, sed a servitio suo ipsos amovit.

A. D. 1290. Chron. W. de Hemingburgh, ii. 20. Tenuit rex parliamentum suum Londoniis post Pascha, ubi fecit statuta Westmonasterii tertia . . . ordinatumque est per regem et secretum consilium quod certo die infra horam primam et tertiam omnes Judaei in singulis civitatibus caperentur et deinde expellerentur a terra.

Ann. Dunstapl. p. 362. Et quia dicta expulsio Judaeorum multum placuit Anglicanae ecclesiae et populo, clerus concessit regi decimam bonorum spiritualium secundum taxationem Norwicensem ; et baronagium et clerus concesserunt quintam decimam bonorum temporalium, taxandam et assidendam per legales homines secundum verum valorem inter gulam Augusti et festum Sancti Michaelis.

Ann. Osney, p. 326. Circa festum Sancti Michaelis . . . pessimis et protervis domini regis consiliariis persuadentibus, ipsumque regem ad hoc pertinaciter inducentibus, exiit edictum a rege toti regno perniciosum nimis et deplorabile, videlicet ut universi regnicolae tam clerici quam laici, saeculares pariter et religiosi, quintam decimam partem omnium bonorum suorum saecularium mobilium solverent fisco regio. . . .

Ann. Eliens. MS. Qui (sc. octo episcopi) omnes in crastino Dominicae . . . (sc. Oct. 2) in capitulo Eliensi concilium celebrantes, decimas ecclesiarum Cantuariensis provinciae secundum taxationem Norwicensem dicto regi ad unum annum concesserunt.

Rot. Parl. i. 45. Placita de parliamento apud Clypston, a die Sancti Michaelis in unum mensem, annot XVIII°.

A.D. 1291. Rot. Parl. i. 66. Placita de parliamento apud Assherugge in crastino Epiphaniae, anno XIX°.

Oct. 1291. *Sentence on Earl of Hereford for waging private war* (Morris, *Welsh Wars*, 233). Et quia haec omnia audacius et praesumptuosius per ipsum comitem et homines de Breghennok fiebant, credentes quod per libertatem suam Marchiae possent evadere e poena et piaculo quae merito incurrisse debuissent si extra marchiam alibi in regno talem excessum perpetrassent ; et sic puniendus est dux libertatis, tam in re illa quae sibi et suis temerariam praebuit audaciam delinquendi, quam in persona ipsa, propter contemptum et inobedientiam Domino Regi factam contra inhibitionem praedictam; constitutum est quod idem comes committatur gaolae et libertas sua de Breghennok cum pertinentibus capiatur in manum Regis.

A.D. 1292. Rot. Parl. i. 70. De parliamento apud Londonias in crastino Epiphaniae Domini anno Regis Edwardi XX^mo.

Ib. p. 78. Rex . . . in pleno parliamento suo et de communi consilio suo statuit . . .

A. D. 1293. Rot. Parl. i. 91. Placita coram ipso domino rege et consilio suo ad Parliamentum suum post Pascha apud Londonias in manerio archiepiscopi Eboracensis, anno regni domini regis Edwardi XXI°.

Statutes of the Realm, i. 112. . . . Dominus rex ad parliamentum suum post Pascha anno regni sui XXI^mo ad instantiam magnatum regni sui concessit et firmiter extunc praecepit observari. . . .

Rot. Parl. i. 112. Placita coram ipso domino rege et consilio suo ad parliamentum suum post festum Sancti Michaelis anno regni regis Edwardi XXI°. . . . Habito super hoc consilio et tractatu diligenti cum archiepiscopis, episcopis, comitibus, baronibus, thesaurario et baronibus de scaccario, justitiariis et ceteris de consilio clericis et laicis tunc ibi praesentibus, concordatum est . . .

A. D. 1294. Flores Historiarum, iii. p. 88. Rex Edwardus tenuit parliamentum suum apud Westmonasterium post festum Pentecostes; cui aderant Johannes rex Scotiae et omnes magnates Angliae, ubi recitabantur in auditu ibidem existentium motiones et continuationes hujus guerrae, insuper legationes et sponsiones pacis Angliae reformandae . . . Denique in hoc assentiunt omnes recuperare Vasconiam vi et armis. Tunc rex Scotiae concessit regi Angliae per triennium omnes terras suas quae sibi jure haereditario competebant in regno Angliae, in subsidium Vasconiae adipiscendae, regno Scotiae solummodo contentus : ceterique comites et magnates de facultatibus suis auxilium pollicentur.

Ann. Wigorn. p. 516. Cito per ministros regis summa saccorum lanae diligenter scrutata in Anglia et inventa, rex decrevit quod de singulis saccis lanae approbatae quinque marcas, et de sacco communis lanae tres marcas regi redderent venditores.

Chron. W. de Hemingb. ii. 53. Rex Angliae, nescio quorum fretus consilio, omnem pecuniam numeratam et omne depositum in ecclesiis cathedralibus, domibus religiosis, et universis gazophylaciis clericorum et laicorum, fratrumque Praedicatorum et Minorum ceterorumque ordinum omnium, quarto scilicet die Julii hora tertia, per ministros suos ad hoc praeordinatos, quasi ex improviso, cepit et in aerarium suum Londoniis reponi jussit, multamque pecuniam consecutus est quam nunquam postea restituit.

Ib. p. 54. Eodem anno vocavit rex per litteras suas archiepiscopos, episcopos, decanos ecclesiarum cathedralium et archidiaconos in propriis personis, clerumque uniuscujusque diocesis per duos procuratores, ut in festo Sancti Matthaei apostoli coram eo apparerent Londoniis. Quibus ibidem existentibus ait rex ' Domini carissimi, jam satis constat, ut audistis, de famosa ista guerra quae inter regem Franciae et nos initium sumpsit . . . quoniam videtis comites, barones et milites vestros, quod non solum bona verum etiam corpora sua pro vobis exponunt . . . et vos igitur qui corpora vestra exponere non potestis, justum est et rationi consonum ut de bonis vestris subveniatis. . . . Quia recenter duo facta sunt in quibus admiramini, placare vobis volumus et in hac parte respondere. Praecepimus quod omnes lanae terrae arestarentur ; et hoc non sine causa fecimus, quia nostrae voluntatis fuit ut de bonis terrae ipsa terra conservaretur illaesa. Aliud est : datum fuit nobis intelligi quod moneta terrae nostrae corrupta fuit et falsata, unde praecepimus quod statutum monetae in suo robore teneretur, nihil mali suspicantes, sed in hoc facto . . . fines mandati nostri quidam egressi sunt et deceperunt nos ; unde parati sumus emendas facere pro libito vestrae voluntatis.' . . . Respondit Oliverus Lincolniensis episcopus . . . ' detur igitur dies ad consulendum.' . . . Datusque est dies tertius. . . . In unum tandem votum concordabant omnes ut offerrent regi duas decimas in uno anno solvendas ; quod audiens rex indignatus est, et per suos satellites comminatus se extra protectionem suam clerum velle ponere nisi medietatem omnium bonorum concederent et votis ejus annuerent in hac parte : statimque quasi stipula corda eorum dissipata sunt ; quidam enim regi placere volentes festinanter, alii vero timore perterriti subsequenter, concesserunt, et quia immunitas ecclesiae . . . laesa fuit et violata, petiit clerus a rege jubente quosdam articulos ; jussit enim rex postquam votis ipsius paruerant, ut et ipsi ab eo peterent remedia quae vellent. Et petierunt imprimis ut statutum *de manu mortua*, quod in praejudicium sanctae matris ecclesiae fuerat editum, deleretur ; cui quidem articulo respondit ipse rex, quod illud statutum de consilio magnatum suorum fuerat editum et ordinatum, et ideo absque eorum consilio non erat revocandum: ceteris autem articulis quos proposuerant respondit de facili ; ita quod frustrati et delusi reversi sunt ad propria, obligati tamen ad medietatem concessam.

FLORES HISTORIARUM, iii. p. 90. Praecepit rex saecularium militum bona taxari et fisco regio decimari. Mercatoribus quidem et in burgo morantibus indixit senarium denarium a cunctis quae possiderent sibi solvi.

A.D. 1295. FLORES HISTORIARUM, iii. pp. 95, 283. In vigilia Sancti Andreae Apostoli, citatis clero, magnatibus, et populo apud Westmonasterium, ad tuitionem patriae petiit rex iterum sibi subsidium exhiberi. Et concessa est ei undecima pars a quibus anno praeterito decima solvebatur; de quibus vero sexta, tunc septima est collata. Porro archiepiscopus Cantuariensis, indulta sibi conferendi cum suffraganeis suis super hac re licentia, unanimi assensu offerebat regi decimam ecclesiasticorum bonorum. Qua et oblata sed minime admissa, redierunt iterum episcopi super his tractaturi. Cernens igitur rex eorum constantiam, misit ad eos quinquagenarium, magnum videlicet justitiarium de banco, et eos qui sub eo fuerant, qui dixerunt 'Episcopi, haec dicit rex: "oblatum vestrum neque accepto neque acceptabo," sed festinanter descendite voluntatem ejus supplendo, saltem quartam partem vel tertiam concedendo.' Helias autem noster archiepiscopus cum clero de loco suo non descendit. . . . Interim misit rex alium quinquagenarium cancellariae suae et eos qui sub ipso erant: petierunt et hi quae praedestinati poscebant. At in omnibus his non est clerus motus a proposito suo, sed quoniam praeconcesserant decimam iterum obtulerunt. Videns ergo rex suam petitionem vires cleri excedere, nolens eos contristare, in crastino Conceptionis Beatae Mariae eorum gratum acceptavit oblatum.

PATENT ROLLS, Dec. 4. Comites, barones, milites et alii de regno nostro in subsidium guerrae nostrae . . . liberaliter fecerunt undecimam de omnibus bonis suis mobilibus; et cives, burgenses et alii probi homines de dominicis nostris civitatibus et burgis ejusdem regni septimam de omnibus bonis suis mobilibus, exceptis his quae in decima ultima nobis concessa excipiebantur, nobis curialiter concesserint. . . .

A.D. 1296. ANN. TRIVET. p. 352. Rex Angliae profectus in Angliam apud Sanctum Edmundum parliamentum tenuit in crastino Animarum, in quo a civitatibus et burgis concessa est regi octava, a populo vero reliquo duodecima pars bonorum. Clerus ob constitutionem Bonifacii papae hoc anno editam (sc. litteras papae: *Clericis laicos*, Feb. 24, 1296), quae

prohibet sub poena excommunicationis ne talliae vel exactiones a clero per saeculares principes quocunque modo exigantur, vel eis solvantur de rebus ecclesiae, regi pro guerra petenti subsidium denegavit. Rex autem, ut de meliori responso deliberaret, negotium in aliud parliamentum tenendum Londoniis in crastino Sancti Hilarii distulit.

Patent Rolls, Dec. 16. . . . Comites, barones, milites et alii de regno nostro in subsidium guerrae . . . duodecimam de omnibus bonis suis mobilibus, et cives, burgenses et alii probi homines de omnibus et singulis civitatibus, et burgis regni nostri, de quorumcunque tenuris aut libertatibus fuerint, et de omnibus dominicis nostris, octavam de omnibus bonis suis mobilibus . . . concesserint.

A.D. 1297. Ann. Trivet. p. 353. In parliamento Londoniensi post festum Sancti Hilarii, clero in denegatione subsidii persistente, rex ipsum a sua protectione exclusit, pro qua tamen redimenda multi per se, multi vero per mediatores, regi bonorum suorum dederunt postea quintam partem. Rex archiepiscopum in hac parte rigidiorem comperiens, terras ejus omnes seisivit, et de bonis ejusdem debita in rotulis scaccarii inventa praecepit cum celeritate levari.

W. de Hemingburgh, ii. 119. Quadragesimali tempore praecepit rex ut omnes qui lanas haberent et coria, ad certos portus maris infra diem certum cariarent, sub poena perditionis earundem et incarcerationis gravisque forisfacturae regis. Quod cum ipsi fecissent, ministri regis omnes saccos lanae quinarium numerum excedentes, datis talliis, acceperunt ad opus regis, et ab unoquoque sacco numerum quinarium non excedente, ab ipsis eorum dominis nomine malae toltae quadraginta solidos extorserunt. Insuper praecepit rex ut contra passagium suum in Flandriam de quolibet comitatu acciperentur per vicecomitem duo millia quarteria frumenti, et tantundem avenae, et ad portus maris ducerentur. Factumque est sic, et talliabantur homines ad certum numerum quarteriorum, etiam qui bladum non habebant; accipiebantur et ab eis carnes bovinae et porcinae ad certum numerum, et multae fiebant oppressiones in populo terrae.

Ib. p. 121. In festo Sancti Matthiae apostoli ejusdem anni, convocatis optimatibus regni absque clero, tenuit rex parliamentum suum apud Salesbire, ubi rogavit quosdam magnatum ut in Vasconiam transfretarent, et coeperunt singuli se excu-

sare. Indignatusque rex comminabatur quibusdam eorum vel quod irent vel quod terras eorum daret aliis qui ire vellent. Et in hoc verbo scandalizati sunt multi et schisma coepit oriri inter eos. Comes etiam Herefordensis et comes Marescallus excusaverunt se, dicentes quod officia sua quae sibi jure haereditario competebant facerent libenter eundo cum ipso rege. Iterataque prece rogatus est comes Marescallus ut iret : et ait ' Libenter tecum vadam, O rex, praecedendo faciem tuam in acie prima, sicut mihi competit haereditario jure.' Et rex ' Etiam sine me ibis cum aliis.' At ille, ' Non teneor, nec est meae voluntatis, O rex, sine te iter arripere.' Et iratus rex prorupit in haec verba, ut dicitur ; ' Per Deum, comes, aut ibis aut pendebis.' Et ille, ' Per idem juramentum, O rex, nec ibo nec pendebo.' Et licentia non accepta recessit, dissolutumque est concilium quoad diem hanc. Confestim vero duo comites isti, Herefordensis et Marescallus, associatis sibi multis magnatibus et plusquam triginta bannerettis electis, creverunt in populum multum, numeratique sunt in equis armatis mille quingenti viri expediti ad bellum, et coepit eos timere rex, dissimulavit tamen. Illi autem profecti in terras suas noluerunt permittere ministros regis nec lanas, nec coria, nec extraordinarium quicquam capere aut aliquid exigere ab invitis ; quin immo interdixerunt eis ingressum in terras suas sub poena capitis et membrorum, et se ad resistendum praeparabant.

Flores Historiarum, iii. pp. 100, 295. Congregatis archipraesule Cantuariensi et quibusdam aliis coepiscopis suffraganeis suis apud Sanctum Paulum Londini, vii kal. Aprilis, denuo pro statu ecclesiae consulturis, insurgentes protinus duo causidici et duo de ordine Praedicatorum fratres, temporalem et regalem favorem aucupantes, insistunt argumentis probare clerum ipsi regi in tempore belli, non obstante constitutione apostolica, de suis facultatibus posse licite subvenire ; insuper prohibito sub poena incarcerationis, ne quis contra dictum regem et eos qui jampridem suam protectionem quaesierant excommunicationis sententiam promulgaret, provocatione facta pro se ad Romanam curiam et pro ipsis. Recesserunt itaque singuli oneratis suis conscientiis per archiepiscopum sic dicentem ' Unusquisque salvet animam suam.'

Illo tempore proclamatum fuit per Angliam voce praeconaria ut possessores lanarum exponerent ipsas venditioni infra mensem in civitatibus assignatis, alioquin tanquam forisfactura cederent ipsi regi : quae quidem in die Sancti Georgii, quasi

modo praelocuto callide congregatae, pro forisfactura regis in Flandriam sunt transvectae. His et aliis extortionibus turbati, comites et barones Angliae parliamentum per se in foresta de Wyre, sita in Marchia, statuerunt . . .

In crastino translationis Beati Thomae Martyris, citatis baronibus et militia regni Londonias, mandante rege suo constabulario et suo marescallo, comitibus Northfolchiae et Herefordiae, adbreviare coram ipsis apud Sanctum Paulum quot equitaturas quisque posset invenire ipsi in proximo processuro ad bellum ; responderunt quatinus imperaret alicui alteri de domo sua illud officium, eo quod non citati immo rogati diverterant ad eundem. Et displicuit sermo iste in oculis regis, assignatis interim duobus aliis in hujusmodi officio exsequendo. Eodem tempore, admisso archiepiscopo in gratiam regis atque reddita sibi baronia sua, pridie idus Julii, ante magnam aulam regiam elevatus rex super gradum ligneum cum filio suc et archiepiscopo, necnon comite Warwici, coram eo astante populo, erumpentibus lacrymis veniam de commissis humillime postulavit, dicens se minus bene et tranquille quam regem deceret ipsos rexisse, portiunculas facultatum suarum quas sibi dederant, seu quas ministri ejus ipso inscio extorserant, ideo acceptasse ut injuriosos hostium conatus, sitientium sanguinem Anglicanum, sumpta reipublicae particula, massa quietius possidenda, potentius expugnaret. Et addens, ' Ecce expositurus meipsum discrimini propter vos, peto, si rediero, suscipiatis me velut in praesentia habetis, et ablata omnia reddam vobis. Quod si non rediero, in regem vestrum meum filium coronetis.' Haec autem, archipraesule resoluto in lacrymas pollicente se fideliter observare, totus populus fidelitatem extensis manibus stipulantur. Absentantibus interea sponte praefatis comitibus usque quo eorum petitio pro alleviatione patriae audiretur, dixerunt quidam non fore proficuum regi in Flandriam transfretare, neque ipsos sibi illac servitia, ab antecessoribus suis insueta, praebere, praesertim ipsis Scottis jamdudum more Wallensium, adhuc se praesente, recidivatis ad pugnam. Postularunt etiam, allegata primitus communitatis exinanitione, ne de cetero per Angliam taillagia usurparet ; rursum ut libertates, contentae in Magna Carta ac de Foresta, in usu extunc efficacius haberentur, et voluntarias super his inductas exactiones de cetero quasi in irritum revocaret. Super quibus non protinus exauditi cum indignatione recesserunt dicti comites et barones. Quo viso rex, instinctu unitatis confovendae suasuque victoriae

adquirendae, articulos in praedictis cartis contentos innovari insuper et observari mandavit, exigendo pro hac concessione ab incolis octavum denarium sibi dari, qui mox concessus est ei a plebe in sua tunc camera circumstante. Petiit etiam a clero subsidium, qui respondit se velle summo pontifici litteras supplicatorias dirigere pro conferendi licentia obtinenda.

PATENT ROLLS, July 30. Comites, barones, milites et ceteri laici regni nostri extra civitates, burgos et dominica nostra, octavam partem omnium bonorum suorum mobilium, et cives, burgenses et alii probi homines, de omnibus et singulis civitatibus et burgis ejusdem regni nostri, de quorumcunque tenuris aut libertatibus fuerint, et de omnibus dominicis nostris, quintam partem omnium suorum bonorum mobilium . . . nobis concesserint.

W. RISHANGER, *Chron.* p. 175. Rege moram adhuc faciente apud Wynchelseyam, venerunt ad eum nuncii ex parte comitum sui regni, petitiones in scriptis hujusmodi proponentes: 'Haec sunt nocumenta quae archiepiscopi, episcopi, abbates, et priores, comites et barones et tota terrae communitas monstrant domino nostro regi, et humiliter rogant eum ut ea ad honorem suum et salvationem populi sui velit corrigere et emendare. In primis videtur toti communitati terrae quod praemunitio facta eis per breve domini nostri regis non erat sufficiens, quia non exprimebatur certus locus quo debebant ire; quia secundum locum oportebat facere providentiam et pecuniam habere. Et sive deberent servitium facere sive non; quia dictum est communiter, quod dominus noster vult transfretare in Flandriam, videtur toti communitati quod ibi non debent aliquod servitium facere; quia nec ipsi nec praedecessores sui seu progenitores unquam fecerunt servitium in terra illa. Et quamvis ita esset quod deberent ibi servitium facere ut alibi; tamen non habent facultatem faciendi; quia nimis afflicti sunt per diversa tallagia, auxilia, prisas, videlicet, de frumento, avena, braseo, lanis, coriis, bobus, vaccis, carnibus salsis, sine solutione alicujus denarii, de quibus se debuerant sustentasse. Praeter haec dicunt quod auxilium non possunt facere, propter paupertatem in qua sunt propter tallagia et prisas antedictas; quia vix habent unde se sustentent, et multi sunt qui nullam sustentationem habent, nec terras suas colere possunt. Praeter haec tota terrae communitas sentit se valde gravatam, quia non tractantur secundum leges et consuetudines terrae secundum

quas tractari antecessores sui solebant, nec habent libertates quas solebant habere, sed voluntarie excluduntur. Sentiunt enim se multi gravatos super hoc quod solebant tractari secundum articulos contentos in Magna Carta, cujus articuli omnes sunt omissi in majus damnum populo universo. Propter quod rogant dominum nostrum regem quod velit ista corrigere ad honorem suum et populi sui salvationem. Praeter haec communitas terrae sentit se nimis gravatam de Assisa Forestae quae non est custodita sicut consuevit: nec Carta Forestae observatur, sed fiunt attachiamenta pro libito extra assisam aliter quam fieri consuevit. Praeterea tota communitas sentit se gravatam de vectigali lanarum, quod nimis est onerosum, videlicet de quolibet sacco quadraginta solidos, et de lana fracta de quolibet sacco septem marcas; lana enim Angliae ascendit fere ad valorem medietatis totius terrae, et vectigal quod inde solvitur ascendit ad quintam partem valoris totius terrae. Quia vero communitas optat honorem et salutem domino nostro regi, sicut tenetur velle, non videtur eis quod sit ad bonum regis quod transeat in Flandriam, nisi plus esset assecuratus de Flandrensibus pro se et pro gente sua, et simul cum hoc propter terram Scotiae quae rebellare incipit, ipso existente in terra; et aestimant quod pejus facient cum certificati fuerint quod rex mare transierit. Nec solum pro terra Scotiae sed etiam pro terris aliis quae non sunt adhuc modo debito stabilitatae.'

Has petitiones cum rex apud Odemer juxta Wynchelseyam recepisset, respondit se talibus non posse sine suo consilio respondere; cujus pars jam aliqua transiit in Flandriam, pars vero aliqua Londoniis est relicta. . . . Duodecimo kalendas Septembris, rex Angliae naves ingressus, indissoluta classe, sulcato mari, sexto die sequenti applicuit in Flandria. . . .

Bartholomew Cotton, p. 327. Eodem anno post multas et varias altercationes concessit dominus rex omnibus qui debebant sibi servitium, et omnibus viginti libratas terrae habentibus, non teneri ire secum in Flandriam, nisi ad vadia et pro stipendiis dicti domini regis.

Flores Historiarum, iii. p. 102. . . . In vigilia Sancti Bartholomaei Apostoli . . . accedentes praefati comites et barones ad scaccarium domini regis apud Westmonasterium, prohibuerunt baronibus loci illius ne levare facerent per vicecomites octonarium denarium a populo Anglicano, hoc allegato

de conscientia suorum non emanasse, sine quibus taillagium non debet exigi vel imponi.

W. Hemingburgh, ii. 147. Consiliarii regis nostri . . . institerunt apud filium regis . . . ut comites praedictos Marescallum scilicet et Herefordensem . . . rogaret et interpellaret ad pacis unitatem et amorem. Missis ergo litteris suis rogavit eos ut ad parliamentum suum, eo quod patris sui locum tenebat in Anglia, venirent Londoniis X. die Octobris celebrandum. Qui novi praeceptoris et futuri principis rogatum amplectentes, venerunt ad eundem diem, non tamen nudi, immo cum mille quingentis equis armatis et magna copia peditum electorum. Portas tamen civitatis noluerunt ingredi nisi primo concederetur eis quod in omnibus portis civitatis ponerentur prius custodes eorum ne forte absque armis ingressi velut oves in ovili clauderentur. Quo concesso ingressi sunt, ubi tandem post consilia multa et tractatus varios, mediante venerabili patre Cantuariensi archiepiscopo magistro scilicet Roberto de Wynchelse, cujus memoria in benedictione est, non fuit alia forma ad quam consentire voluerunt nisi quod ipse dominus rex Magnam Cartam cum quibusdam articulis adjectis, et Cartam de Foresta, concederet et confirmaret; et quod nullum auxilium seu vexationem a clero vel populo peteret vel exigeret in posterum absque magnatum voluntate et assensu; et quod omnem rancorem remitteret eis et omnibus sibi associatis.

Flores Historiarum, iii. p. 103. . . . Eadwardus filius regis . . . Magnas Cartas de libertatibus et de foresta . . . renovavit consilio senum usus, easdem confirmante patre suo apud Gandavum V^to^ idus Novembris.

W. Hemingburgh, ii. 155. Pro hac autem confirmatione cartarum praedictarum cum suis adjunctis praedictis dederunt magnates terrae cum communi populo nonum denarium; archiepiscopus Cantuariensis cum suo clero decimum denarium; et Eboracensis electus cum suo clero qui propinquiores periculo exstiterunt, quintum denarium, in subsidium guerrae regis in regno Scotiae; lanas etiam religiosorum et aliorum de populo prius acceperat rex, cum protestatione tamen quod allocarentur in eodem quinto.

Patent Rolls, Oct. 14. . . . Archiepiscopi, episcopi, abbates, priores, comites, barones, milites et alii de regno nostro extra civitates, burgos et dominica nostra, nonam partem omnium bonorum suorum . . . nobis concesserunt. . . .

A. D. 1298. W. RISHANGER, p. 185. Rex . . . parliamentum tenuit Eboraci [in festo Pentecostes] . . . suis indixit ut cum equis et armis parati essent Rokesburgiae in festo Sancti Johannis Baptistae. . . . Sub eisdem diebus comites Herefordiae et Marescallus, quia confirmatio cartarum fuerat facta in terra aliena, petiverunt ad majorem securitatem eas iterum confirmari. Spoponderunt autem pro rege episcopus Dunelmensis ac comites Johannes Surreyae, Willelmus Warwici, Radulfus Gloverniae, quod obtenta victoria rex eas post suum reditum confirmaret.

A. D. 1299. W. HEMINGBURGH, ii. 182. Rex . . . tendens Londonias . . . tenuit . . . ibidem parliamentum suum in principio Quadragesimae, ubi per praedictos comites . . . facta est contentio magna super confirmatione Magnae Cartae. . . . Qui cum abiissent, audierunt responsum non acceptabile quidem sed variabile ; articulos enim quos ipsi petierant sic confirmaverat rex ut in fine adjiceret ' salvo jure coronae nostrae.' Quod auditum displicuit, et recesserunt ad propria impacati. Consiliarii autem regis, timentes seditionem populi, tradiderunt utrasque cartas sic consignatas vicecomitibus Londoniensibus ut in publico legerentur : factumque est sic in coemeterio Sancti Pauli congregato populo universo : dumque viderentur imprimis cartae sic consignatae, benedixerunt Dominum et regem, sed audito fine captioso, confestim improperantes, maledictionem pro benedictione intulerunt. Dissolutumque est consilium, et comites nostri ut convenirent iterato in quindenam Paschae ante eorum recessum diem receperunt. In quo quidem colloquio Londoniis celebrato rex quasi omnia petita concessit et votis eorum paruit. Compromiseruntque quantum ad equitationem forestarum omnium in regno Angliae in tres episcopos, tres comites, et tres barones, ut ipsi, Deum habentes prae oculis, forestas equitari facerent, et dubia emergentia secundum Dominum et justitiam dirimerent et declararent.

A. D. 1300. ARTICULI SUPER CARTAS. Pur ceo que les poynz de la grant Chartre des Franchises et la Chartre de la Foreste . . . ne unt pas este tenuz e gardez avant ces heures . . . nostre seigneur le Roi les ad de novel grante, renovele, e conferme, et a la request des prelats, contes et barouns en soen parlement a Westmonster, en quaremme lan de soen regne vint et utisme, ad certeine fourme et peyne ordene e establi, encontre tuz iceaus que contre les poyntz des

avandites chartres ou nul poynt de eles, en nul manere vendront . . . Le roi ad grante a soen poeple qil eient eleccion de leur viscontes en chescun conte ou visconte ne est mie de fee sil voelent . . . (*Statutes of the Realm*, I, p. 136.)

FLORES HISTORIARUM, iii. p. 109. . . . Pro hoc confirmationis effectu concesserunt comites et barones regi quintam decimam partem bonorum suorum mobilium.

A.D. 1302. W. HEMINGB. ii. 223. In octavis Sancti Johannis Baptistae tenuit rex parliamentum suum Londoniis, et exegit a clero et populo quintum decimum denarium de suis temporalibus : scutagium etiam exegit eodem anno in Quadragesima et ceteris militibus concessit ut a suis tenentibus illud facerent.

A.D. 1304. W. HEMINGB. ii. 233. Exegit rex a civitatibus suis et burgis sextum denarium secundum taxationem bonorum suorum.

PATENT ROLLS, Feb. 6. Constituimus vos . . . ad assidendos tallagium nostrum in civitatibus, burgis, et dominicis nostris.

A.D. 1306. PATENT ROLLS, Nov. 10. Archiepiscopi, episcopi, abbates, priores, comites, barones, milites, liberi homines ac communitates comitatuum regni nostri tricesimam . . . civesque et burgenses ac communitates omnium civitatum et burgorum ejusdem regni necnon tenentes de dominicis nostris vicesimam . . . concesserint.

A.D. 1307. W. HEMINGB. ii. 252. In eadem Quadragesima tenuit dominus rex Angliae parliamentum suum apud Carliolum, fecitque ibi statuta quaedam.

STATUTE OF CARLISLE. . . . Dominus rex post deliberationem plenariam et tractatum cum comitibus baronibus proceribus et aliis nobilibus ac communitatibus regni sui habitum in praemissis de consensu eorum unanimi et concordi ordinavit et statuit . . . (*Statutes of the Realm.*)

A.D. 1272. ORDER FOR THE PROCLAMATION OF THE KING'S PEACE.

The reign of Edward I began on the 20th November, 1272 ; on which day the oath of fealty was taken by the barons at Westminster : and from this date he was called king. His absence from England on the crusade rendered this necessary. His predecessors, as a rule, became kings on their coronation,

and the doctrine that during the vacancy of the throne the king's peace was interrupted made it necessary that the coronation should take place as early as possible. Henry II, Richard I, and John had each been in France when his predecessor died, and during the interval before the coronation had been entitled Duke of Normandy, or, sometimes, 'dominus Angliae;' and the maintenance of the peace had been ensured by the chief justiciar. On this occasion the distance of Palestine from England rendered such delay very dangerous; the archbishopric of Canterbury was vacant, and the office of chief justiciar, in its ancient sense, had come to an end. The royal council appears, therefore, to have recognized Edward's hereditary right, and the fealty of the barons, as perfecting his title to the name of king, previous to coronation; and from henceforth (with the single exception of Edward III) to the deposition of Henry VI the date of the king's accession was the day following the death of his predecessor. From that event onwards the throne has never been regarded as vacant by death; the new reign beginning from the moment at which the old one ceases.

EDWARDUS Dei gratia rex Angliae, dominus Hyberniae et dux Aquitanniae, vicecomiti Eboracensi, salutem. Cum defuncto jam celebris memoriae domino Henrico rege, patre nostro, ad nos regni gubernaculum, successione haereditaria ac procerum regni voluntate et fidelitate nobis praestita, sit devolutum, per quod nomine nostro, qui in exhibitione justitiae et pacis conservatione omnibus et singulis de ipso regno sumus ex nunc debitores, pacem nostram dicti magnates et fideles nostri jam fecerunt proclamari; tibi praecipimus quod per totam ballivam tuam in singulis civitatibus et burgis, feriis, mercatis, et locis aliis, pacem nostram publice clamari et firmiter teneri facias, inhibendo omnibus et singulis sub periculo exhaeredationis, necnon amissionis vitae et membrorum, ne quis pacem nostram infringere praesumat. Nos enim omnibus et singulis, in omnibus juribus et rebus ipsos contingentibus, contra quoscunque tam majores quam minores parati sumus et erimus plenam, auctore Domino, justitiam exhibere.

Testibus, W. Eboracensi archiepiscopo; E. Cornubiae et G. Gloucestriae comitibus; apud Westmonasterium XXIII. die Novembris anno regni nostri primo.—(*Foedera* i. 497; *Liber de Antiq. Legg.* p. 155.)

A.D. 1275. The First Parliament of Edward I.

Edward held his first general parliament in 1275, in the second week after Easter, beginning April 22; and to it are to be referred two very important acts, the Statute of Westminster the First, and the grant of the custom on wool, woolfells, and leather.

I. The parliament itself contained, as stated in the preamble of the statute, 'the commonalty of the land,' as well as the prelates and barons: and this expression is further illustrated by the fact that the grant of the custom is said to be made by the *communitates* as well as by the magnates, and at the instance of the merchants. From the writ of summons printed below (No. I) it is clear that in its composition this parliament foreshadowed the more famous assembly of 1295. One distinctive feature, however, in the writ of 1275, is the summoning of representatives from *villae mercatoriae*, by which may be meant either 'market towns' or 'towns of merchants'. Another is the instruction to choose knights of the shire *de discretioribus in lege*. This writ was discovered by Mr. C. Hilary Jenkinson in the Public Record Office, and printed for the first time in the *English Historical Review* (xxv. p. 236).

II. This is said to be the first *general* parliament of Edward: it is to be distinguished, therefore, from the terminal sessions for judicial business which, during this reign, are also called parliaments, but the business of which was conducted by the king's ordinary council.

III. The statute is said to be made by the king, 'par son conseil, e par le assentement des Erceveskes,' &c., a form which seems to show an intentional deviation from the proper 'con-

silio et consensu.' In this substitution of *concilium* for *consilium* lurks probably the principle that the king could enact on his own authority—the principle of the Roman and later feudal lawyers, who were at this time getting a firm grasp on the law of England. Historically, it is to such a period as this that the king's power of ordaining in his own council, as distinct from enacting with counsel and consent of parliament, must be traced. In the letters patent, however, which were directed to the Sheriffs for the publication of the Statute in the hundred courts and county courts, it is said to be made by the king *de communi consilio Praelatorum et magnatum.* (*Statutes*, i. 39.) The use of the French language by Edward I, a curious feature in a policy essentially English, is also traceable to the lawyers, and perhaps to the influence of the law schools of the Continent.

IV. The wool, the staple produce of England, had been a coveted object of taxation early in the century: large quantities of it had been seized for Richard's ransom in 1194, and by the barons in 1264, and it was in many ways peculiarly amenable to royal exaction. We have now the first indication of legislative enactment touching it. The custom, although heavy, seems to have been granted to the crown in a way that was for the time constitutional; and the royal attempts to increase it illegally were stoutly resisted. It was not sufficient to satisfy the king's necessities at the time. Another parliament was held in the autumn of 1275, to which knights of the shire were certainly summoned, and in which the first grant of a fifteenth of movables was made on behalf of the community, from lay property only.

I. *Summons of Knights and Burgesses.*

EDWARDUS, Dei gratia Rex Angliae Dominus Hiberniae et Dux Aquitaniae vicecomiti Middelsex' salutem. Quia generale parliamentum nostrum, quod cum praelatis et aliis magnatibus regni nostri proposuimus habere Londonie ad quindenam Purificationis Beatae Mariae proximo futurae, quibusdam certis de causis prorogavimus usque in crastinum clausi Paschae proximo sequentem, tibi praecipimus quod quatuor milites

de discretioribus in lege militibus comitatus tui, et etiam de singulis civitatibus, burgis et villis mercatoriis de balliva tua sex vel quatuor cives burgenses vel alios probos homines venire facias ibidem ad praedictum crastinum clausi Paschae, ad tractandum una cum magnatibus regni nostri de negotiis ejusdem regni. Litteras etiam nostras diversis personis de balliva tua directas sibi tradi seu mitti facias ex parte nostra sine mora. Et hoc nullo modo omittas, et nos super executione hujus mandati nostri ad terminum praedictum reddas ad plenum certiores. Teste me ipso apud Wodestok' xxvj die Decembris anno regni nostri tertio.—(*Eng. Hist. Review*, xxv. 236.)

II. *Statute of Westminster the First.*

Ces sunt les Establisemenz le Rey Edward le fiuz le Rey Henry, fez a Weymoster a son primer parlement general apres son corounement apres la cluse Paske lan de son regne tierz, par son conseil e par le assentement des Erceveskes, Eveskes, Abbes, Priurs, Contes, Barons, et la Communaute de la tere ileokes somons. . . .

V. Pur ceo que elections deivent estre fraunches, le rey defent sour sa greve forfeture que nul, haut home ne autre, par poer de armes ne par malice ne desturbe de fere fraunche Election. . . .

XXXVI. Pur ceo que avaunt ces ures ne fut unkes resonable aide a fere fiuz Chivalers, ou a filles marier, mise en certein, ne quant ele devoit estre prise, ne quel houre, par quei les uns leverent outraiouse aide plus tost que ne sembloit mester, dont le pople se senti grevee ; purveu est que desoremes de fee de Chivaler entier solement seient donez vint souz, e de vint liveres de tere tenues par socage vint souz, e de plus plus, e de meins meins, solum le afferaunt ; e que nul ne puisse lever tiel aide de fere son fiuz Chivaler taunt que son fiuz seit de age de quinze aunz, ne a sa fille marier taunt que ele seit de age de set aunz ; et de ceo serra fet mencion en la brief le rey forme sur ceo, quant il le veille demaunder. . . .

Translation.

These be the Acts of King Edward, son to King Henry, made at Westminster at his first parliament general after his coronation, in the second week after Easter, the third year of his reign, by his council and by the assent of archbishops, bishops, abbots, priors, earls, barons, and the community of the realm being thither summoned. . . .

V. And because elections ought to be free, the king commandeth on pain of his great forfeiture that no one, great man or other person, by force of arms, nor by malice, shall disturb any from making free election. . . .

XXXVI. Forasmuch as before this time reasonable aid to make one's son knight or to marry his daughter was never put in certain, nor how much should be taken, nor at what time, whereby some levied unreasonable aid, and sooner than seemed necessary, whereby the people felt themselves burdened; it is provided that from henceforth of a whole knight's fee there be taken but xx. s. and of xx. librates of land holden in socage xx. s.; and of more more and of less less in proportion. And that none shall levy such aid to make his son knight until his son be fifteen years of age, or to marry his daughter until she be of the age of seven years; and of that there shall be made mention in the king's writ framed for this purpose, when any will demand it. . . .— (*Statutes of the Realm*, i. 26, 35.)

III. *Grant of Custom on Wool, Woolfells, and Leather.*

Omnibus Christi fidelibus ad quos praesens scriptum pervenerit Willelmus de Valencia comes Penbrok, salutem in Domino. Cum archiepiscopi, episcopi, et alii praelati regni Angliae, ac comites, barones, et nos et communitates ejusdem regni ad instantiam et rogatum mercatorum pluribus de causis unanimiter concesserimus magnifico principi et domino nostro carissimo domino Edwardo Dei gratia regi Angliae illustri, pro nobis et haeredibus nostris, dimidiam marcam de quolibet sacco lanae et dimidiam marcam pro singulis trescentis pellibus lanutis quae faciunt unum saccum, et unam marcam de qualibet lesta coriorum, exeuntibus regnum Angliae et terram Walliae, percipiendas de cetero in singulis portubus Angliae et Walliae tam infra libertates quam extra; nos ad requisitionem et instantiam praedictorum mercatorum concedimus, pro nobis et haeredibus nostris, quod idem dominus rex et haeredes sui in singulis portubus nostris in Hibernia, tam infra libertates nostras quam extra, habeant dimidiam marcam de quolibet sacco lanae et dimidiam marcam de singulis trescentis pellibus lanutis quae faciunt unum saccum, et unam marcam de qualibet lesta coriorum exeuntibus terram Hiberniae, percipiendam per manus custodum et ballivorum ipsius regis, salva nobis forisfactura illorum qui sine licentia et waranto ipsius domini regis, per litteras suas patentes sigillo suo ad hoc proviso signatas, hujusmodi lanas, pelles, seu coria, per feoda nostra ubi libertates habemus extra Hiberniam ducere praesumpserint. De quibus dictus dominus rex et haeredes sui percipient et habebunt dimidiam marcam de lanis et pellibus et unam marcam de lestis coriorum in forma praedicta; ita tamen quod in singulis portubus nostris ubi brevia praedicti domini regis non currunt, eligantur duo de discre-

tioribus et fidelioribus hominibus portuum illorum, qui praestito sacramento de lanis pellibus et coriis in dictis portubus arestandis quousque mercatores lanarum, pellium et coriorum praedictorum, warantum suum inde sub sigillo domini regis ad hoc proviso habuerint, dictam consuetudinem fideliter colligant et recipiant ad opus ipsius domini regis et sibi inde respondeant. In cujus rei testimonium praesenti scripto sigillum nostrum apposuimus. Datum in generali parliamento praedicti domini regis apud Westmonasterium, die Dominica in festo Sancti Dunstani episcopi anno regni ejusdem regis tertio.—(*Parliamentary Writs*, i. 2.)

A.D. 1225–1277. Summonses to Ecclesiastical Councils.

The following series of documents shows the growth of the representative system in the construction of Church Councils during this century :—

1. A summons by Archbishop Langton of the bishops, deans of cathedrals, archdeacons, abbots, and conventual priors.
2. A summons by the same archbishop, directing, in addition to the above, the presence of proctors for the chapters of the collegiate churches and for the monasteries.

   Both these are for ecclesiastical business only.
3. A summons by Archbishop Boniface, directing the presence of bishops, deans, abbots, and priors ; and of the archdeacons with letters of proxy from the clergy of their archdeaconries.
4. A summons by Archbishop Kilwardby, directing the bishops to bring with them three or four of their greater clergy.

   The presence of proctors of the parochial clergy, although such proctors were present in the Parliament of 1255, is not yet regarded as an indispensable part of an ecclesiastical assembly.
5. A mandate addressed by Archbishop Kilwardby to the Bishop of London as dean of the province, directing him to summon the bishops of the province, with the

greater members of their chapters, the archdeacons and the proctors of the clergy.

None of these writs corresponds exactly with the summons to convocation in its modern sense.

I. A.D. 1225. *Summons to a Council of Bishops.*

STEPHANUS Dei gratia Cantuariensis archiepiscopus totius Angliae primas et sanctae Romanae Ecclesiae Cardinalis, venerabili fratri E. eadem permissione Londoniensi episcopo, salutem in Domino. Fraternitati vestrae mandamus quatenus omnes suffraganeos nostros vocetis, ut veniant Londonias in crastino Epiphaniae Domini, et vocent decanos cathedralium ecclesiarum et archidiaconos suos abbates etiam et priores conventuales, ut similiter Londonias veniant, audituri mandatum domini papae, termino memorato. Hujus igitur auctoritate mandati vobis mandamus quatenus dictis die et loco secundum formam praescriptam compareatis. Vos igitur secundum formam praescriptam praesentiam vestram dictis die et loco exhibeatis. Valete.—(*Wilkins, Concilia,* i. 602.)

II. A.D. 1225. *Summons to a Convocation of the Prelates, Archdeacons, and collegiate and monastic Clergy.*

MANDAMUS vobis quatenus pro officii vestri debito faciatis vocari omnes episcopos, abbates non exemptos a nobis, et omnes priores et omnes decanos cathedralium ecclesiarum et praebendalium, et omnes archidiaconos ; et significetis singulis capitulis ut mittant procuratores tam videlicet ecclesiarum cathedralium quam praebendalium et monasteriorum et aliarum domorum religiosarum ac collegiatarum, in virtute obedientiae et sub poena suspensionis eis districtius injungentes, ut intersint Londoniensi concilio, quod erit Dominica post Pascha, qua cantatur *Misericordia Domini* ; et significetis omnibus praedictis ut intersint, deliberent, et plene instructi venirent ad respondendum nuncio domini papae super petitione ex parte domini papae, et hoc faciant omni occasione et dilatione postpositis. Ut autem sciatis qui sint abbates exempti a nobis, eos vobis duximus nominandos ; videlicet abbas Sancti Albani, abbas Westmonasterii, abbas Sancti Edmundi, abbas Sancti Augustini Cantuariensis. Hujus igitur auctoritate mandati vobis mandamus quod dictis die et loco praefato intersitis concilio ; omnes insuper superius nominatos secundum formam ejusdem mandati vocandos citari faciatis, ut sub

poena superius expressa plene instructi, eisdem die et loco praefato intersint concilio.—(*Wilkins, Concilia,* i. 602.)

III. A.D. 1258. *Summons to a Convocation in which the Archdeacons act as Proctors for the parochial Clergy.*

Bonifacius permissione Divina Cantuariensis archiepiscopus, totius Angliae primas, venerabili in Christo patri R. Dei gratia Coventrensi et Lichfeldensi episcopo, salutem et fraternae dilectionis in Domino semper augmentum. Cum propter ecclesiae Anglicanae eventus et causas quas fraternitatem vestram ignorare non convenit, fratrum nostrorum congregationem videamus opportunam, devotionem vestram rogamus, monemus, et exhortamur in Domino, sub obedientiae debito firmiter injungentes quatenus die Jovis proxima ante instans festum Sancti Barnabae Apostoli apud Mertonam curetis vestram praesentiam exhibere, qualibet occasione cessante, ut in hac urgenti necessitate ecclesia nostro regimini commissa per vos et alios fratres nostros gratum habeat providi consilii fulcimentum. Vocetis etiam decanos cathedralium ac aliarum ecclesiarum, necnon abbates, priores majores, insuper et archidiaconos vestrae diocesis universos, ut cum litteris suorum subditorum procuratoriis loco et die antedictis compareant, ut quod communi deliberatione provisum fuerit ex membrorum cohaerentia firmius roboretur. Datum apud Lamhedam XIII kalendas Maii, A.D. M° CC° L° VIII°. —(*Ann. Burton,* p. 411.)

IV. A.D. 1273. *Summons to a Convocation in which the Diocesan Clergy are represented by Episcopal Nominees.*

Robertus, miseratione Divina Cantuariensis archiepiscopus totius Angliae primas venerabili in Christo fratri et domino H. Dei gratia Londoniensi episcopo, salutem et fraternae dilectionis in Domino sempiternum augmentum. ... Venerandae paternitati vestrae tenore praesentium mandamus quatenus omnes ecclesiae nostrae Cantuariensis suffraganeos auctoritate nostra vocetis, quod conveniant apud Novum Templum Londoniis die Mercurii proximo post instans festum Sancti Dionysii, super statu ecclesiarum et ecclesiasticarum libertatum, ac aliis quibusdam articulis necessariis, nobiscum tractaturi, provisuri, et ordinaturi, quod ad Dei honorem et ecclesiae Suae sanctae visum fuerit conveniens expedire. Et ut negotium hujusmodi saniori consilio fulciatur, injungatis ex parte nostra singulis

episcopis ecclesiae nostrae suffraganeis, ut quilibet eorum vocet et ducat secum ad praedictam congregationem tres vel quatuor personas de majoribus, discretioribus et prudentioribus suae ecclesiae et dioceseos, ut communi mediante consilio tantum ecclesiae Dei negotium, Ipsius misericordia suffragante, felicem sortiatur effectum. Vos etiam sub forma consimili dictis die et loco compareatis, et faciatis nos per litteras vestras patentes, praesentium tenorem continentes, de hujus mandati nostri executione diligenti certiores. Datum apud Aldington, VII^mo^ idus Septembris, consecrationis nostrae anno primo.—(*Wilkins, Concilia*, ii. 26.)

V. A.D. 1277. *Summons to a Convocation, in which the Diocesan Clergy are represented by their Proctors.*

Robertus Cantuariensis archiepiscopus H. Londoniensi episcopo salutem, etc. Meminimus in congregatione nostra communi dudum habita Northamptoniae negotia varia utilitatem pariter et honorem totius ecclesiae Anglicanae tangentia in medio fuisse proposita, in quorum executione, licet viae de communi consilio excogitatae fuissent, et executores viarum praedictarum varii deputati; quia tamen in quibusdam negotiis seu executionibus eorundem nobis adhuc exitus est incertus, quaedam autem penitus inconsummata existunt, emerserunt autem quaedam nova, quae ad aversionem nostrorum jurium, consuetudinum, libertatum, et grave periculum ecclesiae Anglicanae redundant; fraternitati vestrae per praesentia scripta mandamus quatenus omnes fratres et coepiscopos seu suffraganeos nostros auctoritate nostra faciatis peremptorie per vestras litteras evocari, quatenus nobiscum in civitate Londoniarum in crastino Beati Hilarii in propriis personis conveniant una cum aliquibus personis majoribus de suis capitulis, et locorum archidiaconis, et procuratoribus totius cleri diocesium singularum, nobiscum super negotiis memoratis tam praedictis quam instantibus efficacius tractaturi; ut eisdem eorundem communi mediante consilio finis imponatur laudabilis, ut ita incerta certitudinem et inconsummata consummationem et emergentia nova consilium debitum sortiantur. Qualiter autem hoc nostrum mandatum fueritis executi, nos per vestras litteras patentes harum seriem continentes, certificare curetis die et loco praedictis. Datum apud Mechlindon XVI° kalendas Decembris, A.D. M°CC°LXX°VII°. —(*Wilkins, Concilia*, ii. 30.)

A.D. 1278. Writ for Distraint of Knighthood.

This custom is illustrated by writs dating from the early years of Henry III.

In relation to Edward's reign, it must be regarded chiefly as one of a class of expedients for raising money. The necessities of the crown were large; its estates impoverished; in 1275 the custom on wools and a fifteenth on movables had been granted. It was not until 1279 that the ecclesiastical revenues were taxed, nor until 1282 that a new aid was granted. In the meantime, a revenue was raised by accepting fines 'pro respectu militiae' for respite of knighthood. This measure may be compared with the scutage of Henry II, and with the Assize of Arms, but it is socially interesting as showing the increase in number and wealth of the tenants in socage, the most thoroughly English part of the population. In the following Act knighthood is made incumbent on the possessors of land worth £20 per annum: in 1282, all persons possessing an estate of £30 per annum are ordered to provide themselves with a horse and armour: in 1285, all freeholders holding estates of less than £100 a-year are excused knighthood: in 1292, all holding £40 a-year in fee are to be distrained: in 1297, all holding over £20 a-year are summoned to military service. And so on. The principle was at once elastic and easy of application. Its importance, however, is prospective.

The author of the *Flores Historiarum* (ii. 383) ascribes to Henry III in 1253 a measure compelling all freeholders possessing £15 a-year in land to become knights; but this is perhaps an error caused by a confusion between the Assize of Arms, which directs such persons to provide a horse and armour (above, p. 363), and the later practice.

Rex vicecomiti Gloucest. salutem. Praecipimus tibi firmiter injungentes quod omnes illos de balliva tua qui habent viginti libratas terrae, vel feodum unius militis integrum valens viginti libras per annum, et de nobis tenent in capite et milites esse debent et non sunt, sine dilatione distringas ad arma militaria

citra festum Natalis Domini proximo futurum, vel in eodem festo, a nobis suscipiendum : distringas etiam sine dilatione omnes illos de balliva tua qui habent viginti libratas terrae, vel feodum unius militis integrum valens viginti libras per annum, de quocunque teneant, et milites esse debent et non sunt, ad hujusmodi arma in eodem festo vel interim suscipiendum : ita quod bonam et sufficientem securitatem inde ab eisdem recipias et nomina omnium illorum per visum duorum legalium militum comitatus praedicti in quodam rotulo conscribi, et nobis sub sigillo tuo et sigillis duorum militum sine mora transmitti facias. Et scire te volumus quod de gestu tuo in executione hujus mandati nostri diligentem faciemus executionem et extunc remedium super hoc fieri faciemus opportunum. Teste Rege apud Westmonasterium, XXVI. die Junii.—(*Parliamentary Writs*, i. 214.)

A.D. 1278. The Statute of Gloucester.

The following extract shows the true nature of the *Quo Warranto* inquiries, which Edward instituted under this statute. His object was not, as Walter of Hemingburgh states (*Chronicon*, ii. 6), to test the titles by which his barons held their lands; but to discover and destroy all illegitimate franchises. At first the crown refused to admit that any franchise could be lawfully exercised except under an express written grant. Finally, however, it was enacted that franchises exercised before the coronation of Richard I should be tolerated, even if no charter of grant could be shown (*Statutes of the Realm*, i. 107).

Le an de grace M°CC°LXXVIIJ del Regne le Rey Edward, fiz le Rey Henri sisme, a Gloucestre le mois de Aust, purveaunt mesme le Rei pur le amendement de sun reaume, e pur plus plenere exhibicion de dreit, si com le profit de office regal demaunde, appelez les plus descrez de sun reaume, ausi bien des greindres, cum des meindres : establi est e concordaument ordeine qe . . . les estatutz ordeinemenz e purveaunces suz escrites de tute la gent del regne desoremes fermement seient gardez . . .

Les Viscuntes par tutes lur baillies, ferunt communement crier, ceo est asaver en cites, en burgs, en viles marchaundes

e aillours, qe tuz ceus, qi aucunes fraunchises cleiment aver, par les chartres les predecessurs le Rei, Reis de Aungleterre, ou en autre manere, seient devaunt le Rei, ou devaunt Justices en eire, a certeins jour e leu, a mustrer quel manere de fraunchises il cleiment aver, e par quel garaunt.—(*Statutes of the Realm*, i. 45.)

A.D. 1279. Statute of Mortmain.

The parliament in which the *Statute de Religiosis* was enacted appears to have been the same assembly in which the king demanded of the clergy an aid which should represent, on their part, the fifteenth granted by the baronage in 1275. This demand is placed by the annals of Osney on the 1st of November, 1280; but it is shown by the letters of the two archbishops (above, p. 423) to belong to 1279. It was responded to, after some hesitation, by a grant of a tenth of ecclesiastical revenue for two years in the province of York, and by one of a fifteenth for three years in the province of Canterbury: and these were made early in 1280.

The repressive character of the Mortmain Act, as well as the urgency of the demand for an aid, was probably owing at the moment to the alarm taken by the king and his advisers at the energetic action of Archbishop Peckham, who had, in legislating for the Church at the Council at Reading, gone, as the king thought, beyond the limits of ecclesiastical jurisdiction, especially in directing that a new copy of Magna Carta should be annually posted up in all cathedral and collegiate churches. Although, however, this statute may have been timed by a wish to repress ecclesiastical assumptions, it was unquestionably called for by the prevalence of an abuse which had existed from the first day of the Church Establishment in England; the fraudulent bestowal of estates on religious foundations, on the understanding that the donor should hold them as fiefs of the Church, and as so exonerated from public burdens. There is no period of our history at which complaints of this practice may not be found. But it had been whole-

somely treated by Henry II, in enforcing scutages from the knights' fees held by the clergy, a principle of which the following statute may be regarded as an expansion. The Statute of Mortmain bears a close relation to the statute *Quia Emptores*, enacted eleven years later, in which the feudal dues of the superior lords, the king the chief of them, are secured by the abolition of subinfeudation; as in this act they are secured by the limitation of ecclesiastical endowments. In both these points Edward's policy was a carrying out of the principles of his great-grandfather.

Statutum De Viris Religiosis.

Rex Justitiariis suis de Banco, salutem. Cum dudum provisum fuisset quod viri religiosi feoda aliquorum non ingrederentur sine licentia et voluntate capitalium dominorum de quibus feoda illa immediate tenentur; et viri religiosi postmodum nihilominus tam feoda sua propria quam aliorum hactenus ingressi sint, ea sibi appropriando et emendo et aliquando ex dono aliorum recipiendo, per quod servitia quae ex hujusmodi feodis debentur et quae ad defensionem regni ab initio provisa fuerunt indebite subtrahuntur, et domini capitales escaetas suas inde amittunt; nos super hoc pro utilitate regni congruum remedium provideri volentes, de consilio praelatorum, comitum et aliorum fidelium regni nostri de consilio nostro existentium, providimus, statuimus et ordinavimus, quod nullus religiosus aut alius quicunque terras aut tenementa aliqua emere vel vendere, aut sub colore donationis aut termini vel alterius tituli cujuscunque, ab aliquo recipere, aut alio quovis modo, arte vel ingenio, sibi appropriare praesumat, sub forisfactura eorundem, per quod ad manum mortuam terrae et tenementa hujusmodi deveniant quoquo modo. Providimus etiam quod si quis religiosus aut alius, contra praesens statutum, aliquo modo, arte vel ingenio, venire praesumpserit, liceat nobis, et aliis immediatis capitalibus dominis feodi taliter alienati, illud infra annum a tempore alienationis hujusmodi ingredi et tenere in feodo et haereditate. Et si capitalis dominus immediatus negligens fuerit, et feodum hujusmodi ingredi noluerit infra annum, tunc liceat proximo capitali domino mediato feodi illius, infra dimidium annum sequentem, feodum illud ingredi et tenere, sicut praedictum est; et sic

quilibet dominus mediatus faciat si propinquior dominus in ingrediendo hujusmodi feodum negligens fuerit, ut praedictum est. Et si omnes hujusmodi capitales domini hujusmodi feodi, qui plenae fuerint aetatis et infra quatuor maria et extra prisonam, per unum annum negligentes vel remissi fuerint in hac parte, nos statim post annum completum a tempore quo hujusmodi emptiones, donationes aut alias appropriationes fieri contigerit, terras et tenementa hujusmodi capiemus in manum nostram, et alios inde feoffabimus per certa servitia nobis inde ad defensionem regni nostri facienda ; salvis capitalibus dominis feodorum illorum, wardis, escaetis et aliis ad ipsos pertinentibus, ac servitiis inde debitis et consuetis. Et ideo vobis mandamus quod statutum praedictum coram vobis legi et de cetero firmiter teneri et observari faciatis. T. R. apud Westmonasterium XV° die Novembris anno etc. septimo.—(*Statutes of the Realm*, i. 51.)

A. D. 1282–3. Writs for Parliament and other National Councils.

The financial and parliamentary proceedings of the years 1282 and 1283 are very interesting. They may be regarded as marking the point of final transition from the system of local to that of central assent to taxation. The earlier method by which the king treated with the several local communities through his officers or through their own magistrates had been generally adopted until the reign of John : although the barons and prelates made their grants in the ' Commune Concilium,' the lower freeholders, lay and clerical, were treated with separately, the towns and counties through negotiations of the officers of the exchequer or the sheriffs with the magistrates or with the county court, the lower clergy through negotiations of the same royal officers with the archdeacons. At several periods the method of centralization had been used in reference to both classes ; but the borough representation was not yet permanently adopted, and therefore the vote of money by the magnates was necessarily followed up by a separate negotiation with the towns ; and with regard to the clergy, although the representative system was further advanced, it does not seem

to have been yet applied to the making of money grants: in other words, although for ecclesiastical business the proctors of the diocesan clergy had been called into councils, there is no proof that they had yet granted money. To this extent, then, the method of local negotiation supplemented the grants of money made by the central assemblies. It is at this date that the former method vanishes and the latter comes into full play.

In 1282 Edward, being in need of money for the war in Wales, dispatched John Kirkby, afterwards Treasurer of the Exchequer and bishop of Ely, to negotiate separately with the counties and boroughs for a subsidy. The envoy carried letters of credence from the king dated at Chester in the month of June. (No. I.)

The negotiation was favourable to the crown: John Kirkby reported the willingness of the taxpayers to make a grant, and collected considerable sums, for which the king issued letters of thanks, dated at Denbigh in October. (No. II.) Between these dates the whole military force of the kingdom had been called together at Rhuddlan for the 2nd of August.

It was now, however, clear that the sums raised by this negotiation would not be sufficient to satisfy the royal necessities, and that a general grant must be asked for. But it would be extremely inconvenient either for the king and baronage to move from Wales to hold a parliament, or for the representatives of the counties and boroughs or the clergy to be summoned to Rhuddlan. Accordingly writs were issued on the 24th of November to the sheriffs and to the two archbishops, directing them to collect in two provincial assemblies at Northampton and York the representatives of the two estates. These assemblies were to be held on the 20th of January, 1283; the sheriffs were to summon four knights of each shire, and two representatives of each city, borough, and market town; and with them all freeholders capable of bearing arms and holding more than a knight's fee. (No. III.)

The archbishops were to summon, through the bishops, the heads of the religious houses and the proctors of the cathedral clergy, no notice being taken of the parochial clergy. (No. IV.)

The magnates, it is to be remembered, were with the king in Wales.

The assemblies met at the appointed places and on the same day, in two bodies, a lay and clerical one, at each centre.

I. The commons assembled at Northampton determined to grant the king an aid in the same proportion as that which should be granted by the 'magnates'; who, it must be supposed, signified to the king their willingness to grant a thirtieth: the king's letters to the counties, thanking them for this, are dated at Rhuddlan, February 28, 1283. (No. VII.)

II. The corresponding assembly at York seems to have acted somewhat differently, perhaps to have made a larger or a smaller offer. The king, however, in answer (dated March 18) to the communication of his officers, expresses his gratitude to the northern counties and his intention of taking of them the thirtieth as in the case of the southern province. In the form drawn out for the collection of this thirtieth, it is expressly provided that all sums paid by the several communities in consequence of the negotiations carried on by John Kirkby in 1282 shall be deducted from the amount now payable by virtue of the general grant.

It was different with the ecclesiastical assemblies.

III. The clergy of the province of Canterbury met at Northampton under the archbishop, and were asked for a tenth of their revenue for three years; they excused themselves from replying at once, the chief cause alleged being the absence of the larger portion of their body—that is, the non-representation of the parochial clergy. In consequence of this the archbishop (on the 21st of January) issued a mandate to the Bishop of London, directing him to summon two proctors for the parochial clergy of each diocese, and one proctor to represent each of the chapters of the province. (No. V.) These

were to meet the bishops at the New Temple at London three weeks after Easter. This plan of organizing the representation of the clergy is said in the mandate to have been arranged in the council of Northampton, and it was either then or shortly after embodied in a formula, which may be regarded as settling historically the representation of the clergy in the convocation of the province of Canterbury :—

'Item praecipimus, ut in proxima congregatione nostra tempore parliamenti proximi post festum Sancti Michaelis ad tres hebdomadas per Dei gratiam futura, praeter personas episcoporum et procuratores absentium, veniant duo aut unus [al. ad minus] a clero episcopatuum singulorum, qui auctoritatem habeant una nobiscum tractare de his quae ecclesiae et communi utilitati expediunt Anglicanae, etiamsi de contributione aliqua vel expensis oportet fieri mentionem.'—(*Wilkins, Concilia*, ii. 49.)

This formula is sometimes treated as a canon, and appended, erroneously, to the decrees of the Council of Reading in 1279.

The convocation thus constituted met at London three weeks after Easter, and was unable to come to a determination. The clergy were in fact hampered by the grant made in 1280 to the king, of a fifteenth of ecclesiastical revenue for three years, a year and a term of which were not yet due. (See above, p. 450.) The archbishop was compelled to issue a new mandate, directing the assembly of convocation three weeks after Michaelmas ; in preparation for this meeting all the bishops of the province were (August 6) directed to call together their clergy in diocesan synods, so that the proctors, when they met, should be able to give a distinct answer. The objections of the clergy seem to have been overcome, but the records of the determination of the dispute are not found.

IV. Of the assembly of the clergy at York we only know that their meeting was either delayed or prorogued to the 16th of February : probably they followed the lead of the southern province.

Before the convocation of Canterbury had determined on its answer to the king's commissioners, Edward had found it

necessary to call another council of the kingdom. David, the brother and successor of Llewelyn, had surrendered as prisoner, and the king was preparing to try him as a traitor. For this purpose he summoned the baronage (by writs dated at Rhuddlan, June 28) to meet at Shrewsbury on the 30th of September. Not content, however, with calling together an assembly of the peers of the accused, he summoned also the representatives of the counties; and in addition to these he directed letters to the magistrates of London and twenty other towns, ordering them to return two representatives for each. (No. VI *a*.) This assembly differs from an ordinary parliament in two important particulars: (1) it did not contain the clergy or even the bishops; and (2) the representatives of the towns were summoned by separate writs, and not through the sheriffs. It is, however, called the Parliament of Shrewsbury or of Acton Burnell; and was the assembly in which the statute *De Mercatoribus* was passed. Notwithstanding the language of the writs, it would seem from the words of the historians that David was tried by the baronage only; and the statute of Acton Burnell, although called by that name, was really only an ordinance of the king and his council. (No. VI *b*.) It is therefore only in the loosest meaning of the word that the name of *parliament* is given to the assembly. The condemnation of David and the issuing of the ordinance completed the business for which it was called together.

No. I. A. D. 1282. *Letter of Credence for a Royal Commissioner to raise an Aid.*

Rex vicecomiti Warrewicsirae et Leycestresirae, civibus, burgensibus, mercatoribus, majoribus, ballivis et communitatibus civitatum, burgorum, villarum mercatoriarum, et omnibus aliis de comitatibus praedictis, salutem. Cum mittamus dilectum et fidelem nostrum Johannem de Kirkeby pro quibusdam negotiis nostris arduis et specialibus quae sibi injunximus ex parte nostra et nomine nostro vobis ore tenus exponendis et per vos expediendis, vobis mandamus in fide et dilectione quibus nobis tenemini firmiter injungentes quod eidem Johanni

in praemissis firmam fidem adhibeatis et ea modis omnibus expleatis. Injunximus autem eidem Johanni quod responsum et voluntatem vestram nobis rescribat sine mora. In cujus, etc. T. R. apud Cestriam, XIX. die Junii.—(*Parliamentary Writs*, i. 384.)

No. II. A.D. 1282. *Letter of thanks for the Aid negotiated by a Royal Commissioner.*

Rex dilectis et fidelibus suis majori et civibus suis Herefordiae, salutem. De curiali subsidio quod nobis promisistis ratione praesentis expeditionis nostrae Walliae, secundum quod Johannes de Kirkeby clericus noster, quem ad vos propter hoc cum litteris nostris de credentia transmisimus, nos inde certioravit viva voce, vobis plurimum regratiamur et per Dei gratiam vos inde conservabimus indemnes tempore opportuno. Ceterum quia ad praesens pecunia plurimum indigemus, vobis mandamus, in fide et homagio quibus nobis tenemini firmiter injungentes, quod pecuniam dicti subsidii secundum extractas sub sigillo praefati clerici nostri inde factas, ac vicecomiti nostro Herefordscirae et vobis liberatas, sub omni festinatione levari et eidem vicecomiti liberari faciatis ad nos ducendam, prout ei mandavimus per alias litteras nostras: et ita quod eam habeamus in crastino Omnium Sanctorum ad ultimum. Et hoc, sicut corpora vestra et omnia quae habetis in regno diligitis, nullatenus omittatis. Et advertatis inter alia quod non expediret aliquo modo quod nos et exercitus noster recederemus a partibus Walliae ad praesens pro defectu solutionis pecuniae illius de qua confidimus ad plenum. T. R. apud Dynbey, XXVIII. die Octobris.—(*Parliamentary Writs*, i. 387.)

No. III. A.D. 1282. *Writ of Summons of Knights of the Shire.*

Rex vicecomiti Norfolciae et Suffolciae, salutem. Quia Lewelinus filius Griffini et alii Walenses complices sui, inimici et rebelles nostri, toties temporibus nostris et progenitorum nostrorum regum Angliae pacem regni nostri turbarunt et rebellionem suam et malitiam jam resumptam continuare non desistunt animo indurato, propter quod negotium quod ad ipsorum versutiam reprimendam jam incepimus de consilio procerum et magnatum regni nostri necnon et totius communitatis ejusdem, ad praesens proponimus ad nostram et totius

regni pacem et tranquillitatem perpetuam Deo concedente finaliter terminare, commodius etiam et decentius esse perpendimus quod nos et incolae terrae nostrae ad ipsorum malitiam totaliter destruendam, pro communi utilitate, laboribus et expensis fatigemur hac vice, licet onus difficile videatur, quam hujusmodi turbatione per Walenses ipsos nunc habita pro voluntate sua futuris temporibus cruciari, prout tempore nostro et progenitorum nostrorum contigit manifeste, tibi praecipimus, firmiter injungentes :—

1. Quod venire facias coram nobis in octavis Sancti Hillarii apud Norhamptoniam aut coram fidelibus nostris quos ad hoc duxerimus deputandos, omnes illos de balliva tua ad arma potentes et aptos qui habent ultra viginti libratas terrae et qui nobiscum in expeditione nostra Wallensi non existunt ;

2. Et quatuor milites de utroque comitatuum praedictorum pro communitatibus eorundem comitatuum habentes plenariam potestatem ;

3. Et de qualibet civitate, burgo, villa mercatoria, duos homines similiter potestatem habentes pro communitatibus eorundem, ad audiendum et faciendum ea quae sibi ex parte nostra faciemus ostendi. Et nulli de balliva tua ultra viginti libratas terrae habenti et ad arma potenti et apto, amore, favore, munere seu timore vel alia quacunque ratione parcere vel deferre praesumas. Nec etiam aliquem ultra viginti libratas terrae non habentem, licet ad arma aptus seu potens fuerit, coram nobis vel fidelibus nostris praedictis aliquatenus venire facias ex causa praedicta. Et de nominibus omnium illorum quos sic venire feceris nos vel praedictos fideles nostros ad praedictos diem et locum per praefatos quatuor milites reddas certiores. Et habeas ibi nomina illorum quatuor militum et hoc breve. Et haec omnia sicut te et tua diligis facere non omittas. T. R. apud Rothelan., XXIV. die Novembris.

Eodem modo mandatum est vicecomitibus Nottingham et Derb., Sallop., Staff., Cant., Hunt., Essex., Hertford., Buk., Bed., Somers., Dor., Surr., Suss., War., Leyc., Oxon., Berk., Kanc., Midd., Northampt., Rotel., Linc., Cornub., Devon., Wilt., Heref., Wygorn., Glouc., et Suthampt., quod venire faciant, etc. apud Norhamptoniam. *Et vicecomitibus Ebor., Cumb., Westmor., Northumbr., et Lanc.*, quod venire faciant, etc. apud Eboracum. —(*Parliamentary Writs*, i. 10.)

No. IV. A. D. 1282. *Writ of Summons to the Archbishop of Canterbury and Clergy.*

Rex venerabili in Christo patri Johanni eadem gratia Cantuariensi archiepiscopo, totius Angliae primati, salutem. Quia Lewelinus, etc., *as in the writ to the Sheriffs to* contigit manifeste ; vobis mandamus rogantes quatenus suffraganeos vestros et abbates, priores et alios singulos domibus religiosis praefectos, necnon et procuratores decanorum et capitulorum ecclesiarum collegiatarum vestrae et suffraganeorum vestrorum diocesium, venire faciatis coram nobis apud Norhamptoniam in octavis Sancti Hillarii, vel coram fidelibus nostris quos ad hoc duxerimus deputandos, et vos eisdem die et loco intersitis ad audiendum et faciendum ea quae pro re publica vobis et sibi ostendi super hiis faciemus, et ad praestandum nobis consilium et juvamen, praesertim cum vestra sicut aliorum intersit per quod negotium jam inceptum ad laudem et honorem Dei et magnificentiam nostrae famae ac totius regni nostri et populi pacem et tranquillitatem perpetuam valeamus hac vice, ut intendimus, feliciter consummare. Teste *ut supra.*

Consimilis littera et de eadem data dirigitur archiepiscopo Eboracensi quod suffraganeos, etc. venire faciat coram Rege apud Eboracum in octavis praedictis vel coram fidelibus R. quos, etc.—(*Parliamentary Writs*, i. 19.)

No. V. A. D. 1283. *Writ of the Archbishop summoning the Clergy to Convocation.*

Frater J. etc. episcopo Londoniensi etc. Quoniam in congregatione ad instantiam domini regis habita Northamptoniae in octavis Sancti Hilarii, nunciis ejusdem domini regis super quibusdam nobis et suffraganeis nostris ac clero praesenti ibidem ex parte ipsius expositis, tum propter absentiam maximae partis cleri tunc temporis modo debito non vocati, tum propter alia diversa, ad plenum non potuit responderi, de communi tunc praesentium consilio exstitit ordinatum, ut nostis, quod clerus totus Cantuariensis provinciae ad certos diem et locum pro danda responsione hujusmodi congregetur. Quocirca fraternitati vestrae tenore praesentium praecipiendo mandamus, quatenus confratres nostros episcopos Cantuariensis ecclesiae suffraganeos omnes et singulos, necnon abbates, priores ac alios quoscunque domibus religiosis praefectos, exemptos et non exemptos, decanos ecclesiarum cathedralium et collegiatarum, ac archidiaconos universos per Cantua-

riensem provinciam constitutos, citetis vel citari faciatis peremptorie, quod compareant coram nobis per se vel per procuratores sufficienter instructos, seu conveniant apud Novum Templum Londoniis a die Pascha in tres septimanas, super hiis, quae ex parte domini regis in congregatione praedicta exposita fuerant, tractaturi ac ulterius facturi quod Dominus inspirabit. Singuli insuper episcopi, sicut in dicta congregatione provisum fuerat, circa diem praedictum clerum suae diocesis in aliquo loco certo congregari faciant, et eadem quae ex parte regis nobis proposita fuerant, diligenter exponi procurent ; ita quod ad dictos diem et locum Londoniis, de qualibet diocesi duo procuratores nomine cleri, et de singulis capitulis ecclesiarum cathedralium et collegiatarum singuli procuratores, sufficienter instructi mittantur, qui plenam et expressam potestatem habeant una nobiscum et confratribus super praemissis tractandi, et consentiendi hiis quae ibidem ad honorem ecclesiae, consolationem domini regis, et pacem regni, cleri communitas providebit. De nominibus vero abbatum, priorum et aliorum religiosorum, decanorum, archidiaconorum, procuratorum tam cleri cujuslibet diocesis, quam capitulorum, singuli episcopi pro suis diocesibus ad dictos diem et locum per suas litteras distincte nos certificent et aperte. Vos autem quos tunc praesentes adesse volumus, nobis rescribatis, per vestras litteras patentes, harum seriem continentes, qualiter praesens mandatum nostrum fueritis executi. Datum Northamptoniae XII. kalendas Februarii. A.D. M°CC°LXXX°III°.—(*Wilkins, Concilia*, ii. 93.)

No. VI *a*. A. D. 1283. *Summons of Borough Members to a National Council.*

Rex majori, civibus, et vicecomitibus Londoniarum. Quot fraudum et machinationum generibus lingua Walensium, ad instar vulpium, progenitores nostros, nos, et regnum nostrum invaserit a tempore quo potest hominis memoria recordari, quot strages magnatum, nobilium, et aliorum tam Anglicorum quam aliorum, juvenum atque senum, mulierum et etiam parvulorum, fecerit, quot castrorum et maneriorum incendia tam nostrorum quam aliorum incolarum regni hujus posuerit, quoties turbaverit et infecerit regnum nostrum, Deum vel hominem non verendo, vix posset lingua hominis per singula enarrare ; verum qualiter hiis diebus, ut praeterita taceamus, Lewelinus filius Griffini Walliae quondam princeps, et David

germanus ejus, spreto fidelitatis quam nobis fecerant debito, assueta relinquere non valentes, proditionalius solito villas nostras subito combusserunt, et proh dolor! quibusdam fidelibus nostris occisis, quibusdam combustis, et aliis diris carceribus mancipatis, castra nostra invadere ausu temerario praesumpserunt, fundendo immaniter sanguinem innocentem, jam est regni nostri singulorum auribus inculcatum. Sed Ille, Qui post peccatoris conversionem diutius exspectavit, ipsum induratum praecipitari permittit, hujus fraudibus, machinationibus, incendiis et caedibus inhumanis, ut apparet verisimiliter, imponere finem volens, dicto principe prius interfecto, tandem dictum David, qui quasi ultimus superstes de dictorum proditorum genere habebatur, captivatum per homines linguae suae nostro carceri destinavit; super quo Eidem gratias sicut Ipsum factorem credimus hujus rei. Et quia cum fidelibus nostris volumus habere colloquium quid de David fieri debeat memorato, quem relegatum susceperamus, nutriveramus orphanum, ditaveramus de propriis terris nostris, ipsum inter majores nostri palatii collocantes; vobis mandamus quod duos de sapientioribus et aptioribus civibus praedictae civitatis eligi faciatis, et eos ad nos mittatis, ita quod sint ad nos apud Sallopiam in crastino Sancti Michaelis proximo futuro, nobiscum super hoc et aliis locuturi. Et hoc nullatenus omittatis. T. Rege apud Rothelan., XXVIII^vo die Junii.

A similar letter was addressed to the mayors and citizens of Winchester, York, Exeter, Lincoln, Canterbury, and Carlisle: *to the* mayors and bailiffs of Newcastle-on-Tyne, Bristol, Grimsby, and Lynn: *to the* mayors and good men of Northampton, Hereford, Chester, and Worcester: *to the* bailiffs of Norwich, Nottingham, Scarborough, and Colchester: *and to the* bailiffs and good men of Yarmouth and Shrewsbury,

Sub forma praedicta mandatum est universis et singulis vicecomitibus per Angliam, quod in quolibet comitatu eligi faciant duos milites de discretioribus et aptioribus comitatus illius ad regem pro communitate ejusdem comitatus venturos, ita quod sint ad regem in crastino Sancti Michaelis praedicto apud Sallopiam cum rege super hiis et aliis locuturi.—(*Parliamentary Writs*, i. 16.)

No. VI *b*. A. D. 1283, October 12. *Statute of Merchants.*

. . . Le rei par luy e par sun conseil ad ordine e establi . . . e par cest establissement ne seit bref de dette abatu . . . Donee a Actone Burnel le duzim jor de Octobre en lan de nostre regne unzim.—(*Statutes*, i. 53, 54.)

No. VII. A. D. 1283. *Writ for the Collection of a Thirtieth.*

Rex militibus, liberis hominibus et toti communitati comitatus Suthamtoniae, salutem. De eo quod nuper per quatuor milites ex parte communitatis comitatus praedicti usque Norhamtoniam missos, curialiter concessistis nobis facere subsidium ratione praesentis expeditionis nostrae Walliae, secundum quod magnates nostri providerent et in hujusmodi subsidio concordarent, vobis plurimum regratiamur. Et quia iidem magnates perpendentes milites aliorum comitatuum regni nostri, ex parte communitatis eorundem ad locum praedictum missos, subsidium tricesimae de omnibus bonis suis mobilibus nobis ratione expeditionis praedictae concessisse, concordarunt ad hujusmodi subsidium tricesimae nobis in forma qua milites aliorum comitatuum praedictorum concesserunt faciendum, assignavimus dilectos et fideles nostros Willelmum de Brayboef et Johannem de Arundel ad dictam tricesimam assidendam, taxandam, et per ipsos et per vicecomites comitatus praedicti colligendam. Et ideo vobis mandamus quod eisdem Willelmo et Johanni in praemissis sitis intendentes, respondentes, consulentes et auxiliantes, prout ipsi vobis scire facient ex parte nostra. In cujus etc. T. R. apud Rothelan., XXVIII. die Febr.—(*Parliamentary Writs*, i. 13.)

A. D. 1285. Statute of Westminster II.

De Donis Conditionalibus.

This, the first clause of the Second Statute of Westminster, is of fundamental importance in the history of English mediaeval land-law. It is at first sight inconsistent with the general trend of the king's policy, since it is in restraint of alienation ; and it has been construed as a concession to the feudal party. One effect of it was that estates-tail, held from private grantors, could not in future be forfeited for treason or felony. The fifteenth century saw the elaboration of legal fictions—exemplified in Taltarum's case (1472)—by which entails could be broken.

In primis, de tenementis quae multotiens dantur sub conditione . . . durum videbatur et adhuc videtur hujusmodi donatoribus et haeredibus donatorum quod voluntas ipsorum in donis suis expressa non fuerit prius nec adhuc est observata. . . . Propter quod Dominus Rex, perpendens quod necessarium et utile est in praedictis casibus apponere remedium, statuit quod voluntas donatoris secundum formam in carta doni sui manifeste expressam de caetero observetur ; ita quod non habeant illi, quibus tenementum sic fuit datum sub conditione, potestatem alienandi tenementum sic datum, quo minus ad exitum illorum quibus tenementum sic fuerit datum remaneat post eorum obitum, vel ad donatorem vel ad ejus haeredem si exitus deficiat per hoc quod nullus sit exitus omnino, vel si aliquis exitus fuerit, per mortem deficiat, haerede hujusmodi exitus deficiente. . . . (*Statutes of Realm*, i. 71.)

A. D. 1285. Statute of Winchester.

This important statute may be regarded as representing the sum of the series of documents, touching the Assize of Arms and Watch and Ward, given already ; and thus as illustrating rather the permanent and definite development in England of primitive custom than any particular constitutional detail. In the former stages of this process we have seen several points in which constitutional influences were at work, or in which the same influences were traceable as were at work on the other portions of the national polity to which the name of *constitutional* is more frequently given ; such as the alodial basis of these institutions, and the use of jury-inquest in the administration of them. Such matters become now of archaeological interest only. But the Statute of Winchester is a monument of the persistence of primitive institutions working their way through the superstratum of feudalism and gaining strength in the process : and as such it is an illustration of the same permanence of principle in the higher regions of government. The statute was repealed under James I, with the result that free men were no longer bound to keep weapons. But the common law still bound them to take part in the defence of the country ; and the militia, armed and equipped

at the expense of the state, long remained the most important of the military forces of the crown.

Pur ceo qe de jour en jour roberies, homicides, arsuns, plus sovenerement sunt fetes qe avaunt ne soleyent, e felonies ne poount estre atteinz par serment des jururs, qe plus volunters sufferent felonies fetes as estraunges genz passer saunz peynes qe enditer meffessours, dunt graunt partie sunt gent de meimes le pays, ou a meins, si les fesours sont de autre pays, lour recetturs sunt del visne ; e ceo funt il pur taunt qe serment nest mie hore dute as jururs ne au pays ou les felonies furent fetes qaunt a restitucion des damages, peyne avant ne fu purveue pur lur concelement e lur lachesce ; nostre seignur le rey, pur abatre le poer de feluns, si establit peyne en teu cas, issi qe par pour de la peyne plus qe par pour de serment, a nuli desoremes ne esparnient, ne nule felonie ne concelent ; e comand qe solempnement seit la crie fete, en tuz cuntez, hundrez, marches, feyres e tuz autres lous ou solempne assemble des gentz sera, issi qe nul par ignoraunce se pusse escuser, qe checun pays issi desoremes seit garde, qe meintenant apres roberies e felonies fetes seit fete si fresche sute de vile en vile, de pays en pays.

II. Enquestes ensement seient fetes si mester est en viles par celui qi soverein est de la vile, e pus en hundrez e en fraunchises e en cuntez, et ascun foiz en deux, trois, ou qatre countees, en cas quaunt felonies serunt fetes en marche de cuntez, issi qe meffesours pusent estre ateinz. E si le pais de tels manere de meffesours ne respoigne, la pein sera tiel qe chescun pais, cest assaver genz en pais demoraunz, respoignent de roberies fetes e de damages ; issi qe tut le hundred ou la roberie serra fete, ove les fraunchises qe sunt dedenz la purceint de meime le hundred, respoignent de roberie fete. E si la roberie seit fete en devises dedenz hundrez, respoigne ambedeus les hundrez ensemblement ove les fraunchises ; e plus long terme ne avera le pais, apres la roberie e felonie fete, qe xl. joursz, dedenz les quels il covendra qil facent gre de la roberie e du mefet ou qil respoignent de cors de mefesurs.

III. E pur ceo qe le rey ne vueut pas qe gent sodeynement seient espoveri de ceste peyne qe semblereit dure a aucune gent, graunte qele ne seit mie maintenaunt encorue, mes preigne la peyne respit deqes a la Paske procheine venaunt, e dedenz cel terme verra le rey coment le pais se portera, e seserunt teles

roberies e felonies. Apres quel terme tuz seient certeinz qe lavaundite paine curra generaument, ceo est asaver qe chescun pais, ceo est asaver genz el pais demoraunz, respoignent des roberies e felonies fetes en lur pais.

IV. E a plus seurer le pais, ad le rey comaunde qe en les graunz viles qe sunt closes, les portes seient fermes del solail rescuse deqes au solail levaunt ; e qe nul home ne herberge en suburbe ne en forein chief de la vile, si de jour noun, ne uncore de jour si le hoste ne voille pur lui respundre ; e les baillifs de viles chescune semeine, ou ameins quinzeine, facent enquestes de genz herbergez en suburbes e en foreins chefs de viles ; e sil trovent nul herbergour qi resceive ou herberge en autre manere gent dunt suspeciun seit qil soient gent countre la pes, si enfacent les baillifs dreiture. E desoremes est comaunde, qe veylles soient fetes, issi cum auncienement soleyent estre, ceo est asaver del jour de la Ascenciun deqes le jour Seint Michel, en chescun cite par sis homes, en chescune porte ; en chescun burgh par xii. homes ; en chescune vile en terre par vi. homes ou iiii. solom numbre des genz qi abitent ; e facent la veille continuelement tute la nuit del solail rescusse jeqes al solail levaunt. E si nul estraunge passe par eus, seit arestu jeqes au matin ; e si nule suspeciun ne seit trove, auge quites ; e si em trove suspeciun, seit livere al viscunte maintenaunt, e saunz daunger le receive, e sauvement le garde, jeqes a taunt qe en due manere seit delivre. E si eus ne se soefferent pas estre aresteuz, seit heu e cri leve sur eus, e ceus qi funt la veille les siwent o tute la vilee ove les visnees viles, o heu e cri de vile en vile, jesqes taunt qil serra pris e livrez au viscunte cum est avaunt dit ; e pur le resteiment de tels estraunges, nul ne seit enchesune.

V. Comaunde est ensement qe les hauz chemins des viles marchaundes as autre viles marchaundes seient enlargiz, la ou il iad bois, ou haies, ou fossez, issi qil nieit fosse, suthboys, ou bussuns, ou lem peut tapir pur mal fere pres del chemin, de deus centz pez de une part, e de deus centz pez de autre part, issi qe cet estatut point ne estende as keynes, ne as gros fusz, par qei ceo seit cler desuz. E si par defaute de seignur qi ne vodra fosse, subois, ou bussuns, en la furme avauntdite abatre, e roberies seient fetes, si respoygne le seygnur : e sil ieyt murdre, si seit le seignur reint a la volunte le rey. E si le seignur ne suffist a suzbois abatre, si lui aide le pais a ceo fere. E le rei veut qe en ses demeines terres, e boys dedenz foreste

e dehors, seient les chemins enlargiz cum avaunt est dit. E si par cas park seit pres del haut chemin, si covendra qe le seignur del park amenuse sun park, jeques ataunt qil ieyt la leyse de deus centz pez pres del haut chemin, cum avaunt est dit, ou qe il face tel mur, fosse ou haye qe meffesurs ne pussent passer ne returner pur mal fere.

VI. Comaunde est ensement qe chescun home eit en sa mesun armure pur la pees garder, solum la aunciene assise ; ceo est assaver qe chescun home entre quinze annz e seisaunte soit asis e jure as armes, solum la quantite de lur terres e de lur chateus ; ceo est assaver, a quinze liveree des terres e chateus de quaraunte mars, halibergeun, chapel de feer, espe, cutel e cheval ; a disz liveree de terre e chateus de vint mars, haubergeun, chapel, espe, e cutel ; a cent souldeesz de terre, parpoint, chapel de feer, espe e cutel ; a quaraunte souldeez de terre, e de plus jeqes a cent souz, espe, ark, setes e cutel ; e qe meins ad ke quaraunte souze de terre seit jure a faus gisarmes, cuteus e autres menues armes ; qi meins ad de chateus ke vint mars, espees, cuteus e autres menues armes. E tuz les autres qi aver pount, eient arcs e setes hors des forestes e dedenz forestes arcs e piles. E qe veue des armes soit fete deus foiz par an. E en chescun hundred e fraunchise seyent eleus deus conestables a fere la veue des armes ; e les conestables avaunt diz presentent devaunt les justices assignez, quant il vendrunt en pays, les defautes qil averount trovez de armeure, e de suites de veilles, e de cheminz ; e presentent ausi de genz, qi herbergent genz estraunges en viles de uppelaunde, pur queus il ne volent respundre. E les justices assignez en chescun parlement representent au rey, e le rey sur ceo en fra remedie. E bien se gardent desoremes Viscuntes, Baillifs de fraunchises e dehors, greignurs ou maindres, qi baillie ou foresterie unt, en fee ou en autre manere, qil siwent le cri ove le pays ; e solum ceo qil sunt, eient chevaus e armeure a ceo fere ; e si nul seit qi nel face, seient les defauz presentez par les conestables as justicez assignez, e puis apres par eus au rey cum avaunt est dit. E comaunde le rey e defend qe feire ne marche desoremes ne soient tenuz en cimeter pur honur de Seinte Eglise. Done a Wyncestre, le utisme jour de Octobre, le an du regne le rey trezime.

TRANSLATION.

I. Forasmuch as from day to day, robberies, murders, burnings be more often committed than they have been heretofore, and felonies

cannot be attainted by the oath of jurors which had rather suffer felonies done to strangers to pass unpunished, than to indict the offenders of whom great part be people of the same country, or at least because, if the offenders be of another country the receivers be of the neighbourhood; and they do the same because an oath is not put unto jurors, nor upon the country where such felonies were done, as to the restitution of damages, and hitherto no penalty hath been provided for their concealment and neglect; our lord the king, for to abate the power of felons, ordains a penalty in this case, so that from henceforth, for fear of the penalty more than from fear of any oath, they shall not spare any person nor conceal any felonies; and doth command that proclamation be solemnly made in all shire-courts, hundred-courts, markets, fairs, and all other places where great resort of people is, so that none may excuse himself by ignorance; that from henceforth every country be so well kept that immediately upon such robberies and felonies committed vigorous pursuit shall be made from town to town and from country to country.

II. Likewise when need arises, inquests shall be made in townships by him that is lord of the township, and after in hundreds and in franchises and in the shire, and sometimes in two, three, or four shires, in cases when felonies shall be committed on the borders of shires, so that the offenders may be attainted. And if the country will not answer for such manner of offenders, the pain shall be such, that every country, that is to wit, the people dwelling in the country, shall be answerable for the robberies done and also the damages; so that the whole hundred where the robbery shall be done, with the franchises being within the precinct of the same hundred, shall be answerable for the robberies done. And if the robbery be done on the border of two hundreds, both the hundreds with the franchises within them shall be answerable; and after that the felony or robbery is done, the country shall have no longer space than forty days, within which forty days it shall behove them to make satisfaction for the robbery or offence, or else to answer for the bodies of the offenders.

III. And forasmuch as the king wills not that his people should be suddenly impoverished by reason of this penalty, which would seem hard to some, the king granteth that it shall not be incurred immediately, but it shall be respited until Easter next following, within which time the king may see how the country will order themselves, and will apprehend such robbers and felons. After which term let them all be assured that the foresaid penalty shall run generally; that is to say, every country, that is to wit, the people in the country, shall be answerable for felonies and robberies done among them.

IV. And for the more surety of the country, the king hath commanded that in great towns being walled, the gates shall be closed from the sun-setting until the sun-rising; and that no man do lodge in suburbs, nor in any place out of the town, except in the daytime; nor even in the daytime, without his host will answer for him; and the bailiffs of towns every week, or at the least every fortnight, shall make inquiry of all persons being lodged in the suburbs or in places out of the towns; and if they do find any that have lodged or received any strangers or suspicious person against the peace, the bailiffs shall do right therein. And the king commandeth, that from henceforth,

all watches be made as it hath been used in times past, that is to wit, from the day of the Ascension until the day of S. Michael, in every city by sixteen men at every gate; in every borough, twelve men; every township of the open country, six or four, according to the number of the inhabitants of the township; and they shall watch continually all night from the sun-setting unto the sun-rising. And if any stranger do pass by them he shall be arrested until morning; and if no suspicion be found he shall go quit; and if they find cause of suspicion, they shall forthwith deliver him to the sheriff, and the sheriff may receive him without incurring risk, and shall keep him safely, until he be acquitted in due manner. And if they will not suffer themselves to be arrested, hue and cry shall be raised against them, and such as keep the watch shall follow with hue and cry with all the township and the townships near, and so hue and cry shall be made from township to township, until the man be taken and delivered to the sheriff as before is said; and for the arrestments of such strangers none shall be punished.

V. And further, it is commanded that highways leading from one market town to another shall be broadened, wherever there is ditch or underwood or bushes, so that there be neither dyke, tree, nor bush where a man may lurk to do hurt within two hundred foot of the one side and two hundred foot on the other side of the way; so that this statute shall not extend unto oaks, nor unto great beeches, so long as it shall be clear underneath. And if by default of the lord that will not abate the dyke, underwood, or bushes, in the manner aforesaid, any robberies be done therein, the lord shall be answerable; and if murder be done the lord shall pay a fine at the king's pleasure. And if the lord be not able to fell the underwoods, the country shall aid him therein. And the king willeth that in his demesne lands and woods, within his forest and without, the ways shall be enlarged, as before is said. And if perchance a park be near to the highway, it is requisite that the lord shall minish his park the space of two hundred foot from the highways, as before is said, or that he make such a wall, dyke, or hedge that offenders may not pass, nor return to do evil.

VI. And further it is commanded that every man have in his house harness for to keep the peace, according to the ancient assize; that is to say, every man between fifteen years of age and sixty years, shall be assessed and sworn to arms according to the quantity of their lands and goods; that is to wit, from fifteen librates of lands, and goods worth forty marks, an hauberk, an helm of iron, a sword, a knife, and a horse; and from ten librates of lands, and twenty marks of goods, an hauberk, an helm of iron, a sword, and a knife; and from five pound lands, a doublet, an helm of iron, a sword, and a knife; and from forty shillings of land up to a hundred shillings, a sword, a bow and arrows, and a knife; and he that hath less than forty shillings of land yearly shall be sworn to keep cutlasses, halberds, knives, and other less weapons; and he that hath less than twenty marks in goods, shall have swords, knives, and other less weapons; and all other that may shall have bows and arrows out of the forest, and in the forest bows and bolts. And that view of arms be made every year two times. And in every hundred and franchise two constables shall be chosen to make the view of arms; and the constables aforesaid shall present before the justices assigned, when they

come into the country, the defaults which they have discovered respecting arms, and suit of watch and ward and [the widening of] highways; and also shall present all such as do lodge strangers in inland towns, for whom they will not answer. And the justices assigned shall present at every parliament unto the king such defaults as they shall find, and the king shall provide remedy therein. And from henceforth let sheriffs take good heed, and bailiffs within their franchises and without, be they higher or lower, that have any bailiwick or forestry in fee or otherwise, that they shall follow the hue with the country, and keep horses and armour according to their degree, for this purpose; and if there be any that do not, the defaults shall be presented by the constables to the justices assigned, and after by them to the king as afore is said. And the king commandeth and forbiddeth that from henceforth neither fairs nor markets be held in churchyards, for the honour of holy church. Given at Winchester, the eighth of October, in the thirteenth year of the reign of the king.—(*Statutes of the Realm*, i. 96–98.)

A. D. 1285. The Writ of Circumspecte Agatis.

This document is sometimes called a statute. But it is really an order issued by the king to the judges with reference to some special cases touching the bishop and clergy of Norwich (see the *Constitutional History* c. xiv. § 179). It defines, however, the jurisdiction of the Courts-Christian, and was accepted as an authoritative pronouncement. In principle it resembles the ordinance of William I, since it gives to the Church all cases *quae mere sunt spiritualia*; but it deals more particularly with disputed cases. The clauses which we quote below are in the nature of concessions to the Church. They confirm her correctional jurisdiction over laymen accused of immorality; and give her partial cognizance of cases of defamation, and of assaults upon the clergy.

Rex talibus judicibus, salutem. Circumspecte agatis de negotio tangente dominum episcopum Norwicensem et ejus clerum, non puniendo eos si placita tenuerint de iis quae mere sunt spiritualia; videlicet de correctionibus quas Prelati faciunt pro mortali peccato videlicet fornicatione, adulterio et hujusmodi, pro quibus aliquando infligitur poena corporalis, aliquando pecuniaria; maxime si convictus sit de hujusmodi liber homo. . . . Item si rector petat decimam majorem vel minorem, dummodo non petatur quarta pars alicujus ecclesiae. Item si Rector petat mortuarium in partibus ubi mortuarium dari consuevit. . . . De violenta manuum injectione in clericum,

et in causa diffamationis, concessum fuit alias quod placita inde teneantur in curia Christianitatis, dummodo non petatur pecunia, sed agatur ad correctionem peccati.—(*Statutes of the Realm*, i. 101.)

A.D. 1290. Transactions in Parliament.

The acts and character of the parliament of 1290, like those of the national councils of 1283, bear the marks of a transitionary period. It would seem that during the year there were three distinct parliaments, one on S. Hilary's Day, at which the king appointed new judges in succession to those whom he had displaced on his return from France in 1289; a second after Trinity, in which the business was transacted to which the following documents refer; and a third in October, during which the king and magnates sat at Clipston, and the clergy at Ely. (See above, p. 427.) The summer session is the only one to which the Commons are known to have been summoned.

The first of the following documents is the grant of an aid to the king for the marriage of his eldest daughter. It is made on the 29th of May, by the barons and bishops only, but in full parliament, and not only for themselves but for the commonalty, at the rate of forty shillings on the knight's fee. (No. I.) A fortnight after this, June 14, the king issued a summons to the sheriffs to return two knights of each shire, to meet at Westminster on the 15th of July, to counsel and consent to what should be then and there ordained by the earls, barons, and *proceres*. (No. II.) It is probable that it was intended to urge on the representatives of the shires the duty of agreeing to a similar grant of money. Without, however, waiting for the arrival of the Commons, the king, at the instance of the magnates, enacted the statute *Quia Emptores* on the 8th of July. (No. III.) What was done further in the July session cannot be certainly determined; but it is probable that some difficulties arose, and that the settlement of the aid did not take place before September. On the 22nd of that month, the king, at Clipston, issued letters appointing collec-

tors of a fifteenth, which, he says, the archbishops, bishops, abbots, priors, earls, barons, and others of the realm had granted him. The aid 'pur fille marier' was not exacted at this time, nor for several years after: it was paid in 1302. It would seem, then, that this fifteenth was accepted by the king instead of it, probably in consequence of some action taken by the Commons in July. He himself was at Clipston throughout the month of October, and the Rolls of Parliament record a session of parliament there a month after Michaelmas, but there is no evidence to show that he was attended by the Commons. The clergy, assembled in provincial council at Ely on the 2nd of October, supplemented the lay grant by a vote of a tenth of spirituals. The king's writ for the collection of the fifteenth has no reference to the grant of the tenth, which was indeed later in point of time, although it may have been asked for in July. The importance of these events consists in the facts that, at this date, the presence of the representatives of the shires was not regarded as necessary for legislation; that the magnates still regarded themselves as competent to make a grant *on the knight's fee* for the whole community, without the presence of the Commons; and that notwithstanding, the subsequent consent of the shires was demanded of their representatives, and in consequence, we may infer, of their action, a change in the character of the aid was effected. The historians appear to have thought that the aid was granted in gratitude for the expulsion of the Jews, a measure determined on in the May session.

The enactment of the statute *Quia Emptores* without the presence of the Commons is consistent with the proceedings in the case of the aid. It, as well as the aid, affected the landowners only. There would be no occasion to consult the cities or boroughs on such a point; but that it should be enacted without the assent of the knights of the shire shows distinctly that the king, either alone or with the counsel and consent of the barons, was at this moment held competent to legislate

without the consent of the representatives, so far at least as to publish a statute before that consent could be obtained.

No. I. *Grant of Aid 'pur fille marier'.*

MEMORANDUM quod in crastino Sanctae Trinitatis, anno regni regis decimo octavo, in pleno parliamento ipsius domini regis, Robertus Bathoniensis et Wellensis, Antonius Dunelmensis, Johannes Wyntoniensis, Thomas Menevensis, Radulfus Karleolensis, episcopi ; et Willelmus electus Eliensis, Edmundus frater domini regis, Willelmus de Valencia comes Penebrok, Gilbertus de Clare comes Gloucestriae et Hertfordiae, Johannes de Warennia comes Surreiae, Henricus de Lacy comes Lincolniae, Humfridus de Bohun comes Herefordiae et Essexiae, Robertus de Tipetot, Reginaldus de Grey, Johannes de Hastinges, Johannes de Sancto Johanne, Ricardus Filius Johannis, Willelmus le Latymer, Rogerus de Monte alto, Willelmus de Brewose, Theobaldus de Verdun, Walterus de Huntercumba, Nicolaus de Segrave, et ceteri magnates et proceres tunc in parliamento existentes, pro se et communitate totius regni quantum in ipsis est, concesserunt domino regi, ad filiam suam primogenitam maritandam, quod ipse dominus rex percipiat et habeat tale auxilium et tantum quale et quantum dominus Henricus rex pater suus percepit et habuit de regno ad filiam suam, videlicet sororem domini regis nunc, regi Scotiae maritandam. Et licet idem dominus Henricus rex tempore illo ad praedictum auxilium plenarie non percepit de quolibet feodo militis nisi tantummodo duas marcas vel parum plus, praedicti tamen praelati, comites, barones et proceres concesserunt quod dominus rex percipiat et habeat de quolibet feodo militari quadraginta solidos hac vice plenarie et integre ; ita tamen quod alias non cedat eis in praejudicium vel consuetudinem ; et ita quod istud auxilium nunc concessum levetur eodem modo quo praedictum auxilium domino Henrico regi concessum, ut praedictum est, levabatur.—(*Rolls of Parliament*, i. 25.)

No. II. *Summons of Knights of the Shire.*

REX vicecomiti Northumbriae, salutem. Cum per comites, barones, et quosdam alios de proceribus regni nostri, nuper fuissemus super quibusdam specialiter requisiti, super quibus tam cum ipsis quam cum aliis de comitatibus regni illius colloquium habere volumus et tractatum, tibi praecipimus quod duos vel tres de discretioribus, et ad laborandum potentioribus,

militibus de comitatu praedicto sine dilatione eligi, et eos ad nos usque Westmonasterium venire facias; ita quod sint ibidem a die Sancti Johannis Baptistae proximo futuro in tres septimanas ad ultimum, cum plena potestate pro se et tota communitate comitatus praedicti, ad consulendum et consentiendum pro se et communitate illa hiis quae comites, barones et proceres praedicti tunc duxerint concordanda. T. Rege, apud Westmonasterium XIIII. die Junii.—(*Report on the Dignity of a Peer*, App. i. 54.)

No. III. *Statute of Quia Emptores.*

The importance of this act is chiefly prospective: consisting in the greater facilities afforded for the division of estates; the multiplication of tenants *in capite* of the crown; and at the same time of socage tenants also; the stereotyping of local divisions; the stopping the creation of manors, and of new grades of middle-men between the chief lord and the cultivator; and the fusion of the rural population without distinction of tenure. But viewed in itself, its relation is rather to the Statute of Mortmain, which it resembles in principle, and in the securing of the legal rights of the crown and feudal baronage. It is to be noticed that the statute applies only to land held in fee-simple, and therefore in no way repeals the statute *De Donis Conditionalibus*. *Quia Emptores* is one of the few acts of legislation which, being passed with a distinct view to the interests of a class, have been found to work to the advantage of the nation generally

Quia emptores terrarum et tenementorum de feodis magnatum et aliorum in praejudicium eorundem temporibus retroactis multoties in feodis suis sunt ingressi, quibus libere tenentes eorundem magnatum et aliorum terras et tenementa sua vendiderunt, tenenda in feodo sibi et haeredibus suis de feoffatoribus suis et non de capitalibus dominis feodorum, per quod iidem capitales domini eschaetas, maritagia, et custodias terrarum et tenementorum de feodis suis existentium saepius amiserunt; quod quidem eisdem magnatibus et aliis dominis quam plurimum durum et difficile videbatur, et similiter in hoc casu exhaeredatio manifesta: dominus rex in parliamento suo

apud Westmonasterium post Pascha anno regni sui XVIII°, videlicet in quindena Sancti Johannis Baptistae, ad instantiam magnatum regni sui, concessit, providit et statuit, quod de cetero liceat unicuique libero homini terram suam seu tenementum sive partem inde pro voluntate sua vendere ; ita tamen quod feoffatus teneat terram illam seu tenementum de eodem capitali domino et per eadem servitia et consuetudines per quae feoffator suus illa prius tenuit. Et si partem aliquam earundem terrarum seu tenementorum suorum alicui vendiderit, feoffatus illam teneat immediate de capitali domino, et oneretur statim de servitio quantum pertinet sive pertinere debet eidem domino pro particula illa, secundum quantitatem terrae seu tenementi venditi ; et sic in hoc casu decidat capitali domino ipsa pars servitii capienda per manum feoffatoris, ex quo feoffatus debet eidem capitali domino, juxta quantitatem terrae seu tenementi venditi, de particula illa servitii sic debiti esse intendens et respondens. Et sciendum quod per praedictas venditiones sive emptiones terrarum seu tenementorum, seu partis alicujus eorundem, nullo modo possunt terrae seu tenementa illa, in parte vel in toto, ad manum mortuam devenire, arte vel ingenio contra formam statuti super hoc dudum editi, etc. Et sciendum quod istud statutum locum tenet de terris venditis tenendis in feodo simpliciter tantum, etc. ; et quod se extendit ad tempus futurum ; et incipiet locum tenere ad festum Sancti Andreae proximo futurum, etc. —(*Statutes of the Realm*, i. 106.)

A. D. 1294. Parliamentary Writs.

These writs make the third and penultimate step in the process towards the settled constitution of parliament which was completed in 1295. In 1290 the representatives of the Commons had been summoned after the work of legislation, and even the plan of taxation, had been determined : and the bishops had joined in the grant after the writs for the collection of the lay grant were issued. In 1294, however, the clergy are regularly assembled in the persons of their representatives ; they are treated with separately, but in an orderly way ; and that done, the knights of the shire are summoned to meet the magnates at a later parliament, and the writs for the collection of the grant are dated on the day of meeting. The further

steps of uniting the clergy by their representatives under the *praemunientes* clause, and the Commons by the borough members as well as by the knights of the shire, with the assembled magnates, are taken in 1295.

The war for the recovery of Gascony was determined on in the Whitsuntide parliament or court at Westminster (June 6, 1294). On the 14th the king summoned the military force of the kingdom to muster at Portsmouth on the 1st of September; a term afterwards postponed to the 30th. On the 19th of August the king summoned the whole clergy of the realm, not in provinces as heretofore, but to one assembly at Westminster on the 21st of September (No. I): the chapters being represented by one, and the parochial clergy by two proctors from each diocese. The assembly met, and the king demanded a half of the goods of the clergy: after much discussion and complaint, he seems to have obtained the concession, at least from a portion of the body. He had already seized the treasures of the churches, and the wool of the merchants, and was proceeding in a most arbitrary manner. At this juncture a rebellion of the Welsh stopped the expedition to Gascony; but the king found himself obliged to summon the parliament for a money grant. The writs were issued on the 8th of October (No. II); the next day another writ, summoning two additional knights from each shire, was sent to the sheriffs, but no representatives of the towns were summoned. The day of meeting was the 12th of November. The parliament, without the clergy, met on that day, and the business was speedily dispatched, for, on the same 12th of November, the king appointed the commissioners to collect the tenth granted by the earls, barons, knights, and all others of the kingdom. The chronicle, *Flores Historiarum*, adds that a sixth was extracted from the towns. About the same time a writ was issued exempting from the payment of the tenth the goods of those of the clergy who had granted the 'half' in the assembly on S. Matthew's Day.

No. I. *Summons of the Clergy.*

Rex archiepiscopo Eboracensi, Angliae primati, salutem. Qualiter rex Franciae nos de terra nostra Vasconiae malitiose decepit, et inde fraudulenter ejecit, eam nequiter detinendo, paternitatem vestram credimus non latere. Cum igitur ad terram illam recuperandam a manibus dicti regis vestrum consilium et auxilium, sicut et ceterorum praelatorum ac cleri de regno nostro quos communiter negotium istud tangit, nobis quam plurimum prospexerimus profutura, ob quod apud Westmonasterium in festo Sancti Matthaei Apostoli et Evangelistae proximo futuro personaliter esse disposuimus, Deo dante, ad tractandum una vobiscum et ceteris praelatis ac clero ejusdem regni et ad ordinandum tunc ibidem super statu dictae terrae nostrae Vasconiae et remedio in hoc contra hujusmodi malitiam adhibendo ; vobis mandamus, in fide et dilectione in quibus nobis tenemini firmiter injungentes, quod dictis die et loco personaliter intersitis, vocantes prius decanum et capitulum ecclesiae vestrae, archidiaconos totumque clerum vestrae diocesis, facientesque quod iidem decanus et archidiaconi in propriis personis suis, et dictum capitulum per unum, idemque clerus per duos procuratores idoneos plenam et sufficientem potestatem ab ipsis capitulo et clero habentes, una vobiscum intersint modis omnibus tunc ibidem ad tractandum, ordinandum et faciendum, pro ipsis capitulo et clero ac eorundem nomine, quod de vestro et aliorum praelatorum, decani, archidiaconorum, procuratorum praedictorum communi consilio providebitur in praemissis. T. R. apud Portesmuthe, XIX. die Augusti.

A similar summons was directed to the rest of the bishops severally, and to sixty-seven abbots.—(*Report on the Dignity of a Peer*, App. i. p. 59.)

No. II. *Summons of the Knights of the Shire.*

Rex vicecomiti Norhumbriae, salutem. Quia cum comitibus, baronibus, et ceteris magnatibus de regno nostro, super quibusdam negotiis arduis nos et idem regnum nostrum contingentibus in crastino Sancti Martini proximo futuro apud Westmonasterium colloquium habere volumus et tractatum ; tibi praecipimus quod eligi facias duos milites de discretioribus et ad laborandum potentioribus de comitatu praedicto, et eos ad nos usque Westmonasterium venire facias : ita quod sint

ibi in crastino praedicto cum plena potestate pro se et tota communitate comitatus praedicti, ad consulendum et consentiendum pro se et communitate illa hiis quae comites, barones, et proceres praedicti concorditer ordinaverint in praemissis; et ita quod pro defectu potestatis hujusmodi idem negotium infectum non remaneat. Et habeas ibi hoc breve. T. Rege apud Westmonasterium, VIII. die Octobris.

Rex vicecomiti Norhumbriae, salutem. Cum nuper tibi praeceperimus quod duos milites de discretioribus et ad laborandum potentioribus ejusdem comitatus de consensu ejusdem eligi, et eos ad nos usque Westmonasterium in crastino Sancti Martini proximo futuro cum plena potestate pro se et tota communitate ejusdem comitatus venire faceres, ad consulendum et consentiendum pro se et communitate illa hiis quae comites, barones et proceres de regno nostro in dicto crastino ordinabunt, tibi praecipimus firmiter injungentes quod, praeter illos duos milites, eligi facias alios duos milites legales et ad laborandum potentes, et eos una cum dictis duobus militibus usque Westmonasterium venire facias; ita quod in dicto crastino sint ibidem ad audiendum et faciendum quod eis tunc ibidem plenius injungemus. Et hoc nullo modo omittas. Et habeas ibi hoc breve. T. Rege apud Westmonasterium, IX° die Octobris.—(*Report on the Dignity of a Peer*, App. i. p. 60.)

A.D. 1295. Great Council and Parliament.

The king found himself early in 1295 in very difficult circumstances—at war with France, waging an unsuccessful struggle with the Welsh, and anticipating the breach with Scotland which occurred in the course of the year. It was not until June that he was able to take measures for holding a parliament. On the 24th of that month he issued writs of summons to the archbishops, bishops, abbots, priors, chiefs of orders, earls, barons, judges, deans sworn of the council, and other clerks of the council. They were directed to meet at Westminster on the 1st of August. The object of the gathering was to discuss the proposals for mediation with France made by two papal legates. The debate lasted two days, and the legates left England with powers to treat for a truce. No representatives of the Commons were summoned to this

assembly, which, although it is styled in the Rolls of Parliament a Parliament, and seems to have transacted the usual legal business of the terminal sessions of parliament, was more properly a *Great Council*. No attempt was made in it to raise money, but it was probably arranged that a grant should be asked for in the Michaelmas session. With this view writs were issued on the 30th of September and on the 1st of October for an assembly which should have the power of taxing the whole nation for the war with France.

The first writ issued is, according to ancient precedent (above, p. 153), addressed to the Archbishop of Canterbury. He is directed to attend on the Sunday after Martinmas at Westminster, and is ordered to *premonish* the prior of his cathedral and the archdeacons of the diocese to present themselves in person, and the chapter of the cathedral by one, the parochial clergy by two, sufficient proctors. The machinery of representation of the clergy, which had the year before been used to create a distinct assembly, is now consolidated with that of the parliament. The Archbishop of York has a similar summons, to assemble his clergy, not at York but at Westminster; and the several bishops receive their writs direct from the crown, as in the former summons to parliament, not through the archbishop, as in the case of the provincial convocations; the same day the abbots and priors are summoned. On the 1st of October the writs are issued to the baronage. On the 3rd of October the writs to the sheriffs are dated; and by these each sheriff is directed to return two knights elected by the counties, and two citizens or burghers for each city or borough within his shire.

By these writs of summons a perfect representation of the three estates was secured, and a parliament constituted on the model of which every succeeding assembly bearing that name was formed.

At the session in November the aid demanded was discussed by the three bodies separately. The baronage and knights of

the shire gave an eleventh, the cities and boroughs a seventh. With the clergy there were difficulties. The Archbishop of Canterbury offered a tenth, the king demanded a third, or at least a fourth. The archbishop, however, held out, and the king, after debating the matter for nearly a month, accepted a tenth on the 8th of December. This is perhaps the first case in which we find the three several interests taxing themselves in different proportions; for the statement in the *Flores Historiarum*, that in 1294 the towns were taxed a sixth penny, is not borne out by the records of the kingdom, which mention only the tenth. This is not conclusive, of course, against his assertion; but it is difficult to see how the tax of the sixth penny could have been imposed by an assembly in which the payers were not represented, unless it were by way of tallage. The knights of the shire in 1294 might be understood to represent the towns and cities in their shires, but if so, they would naturally subject all their constituents to the same rate of taxation. No laws were made, and the Rolls of Parliament contain no details of judicial business done at this meeting.

The same year, on the 15th of July, the Archbishop of Canterbury held a council of the bishops of the province at the New Temple, to which the lower clergy were not invited.

No. I. *Summons of the Archbishop to a Great Council.*

EDWARDUS etc. venerabili in Christo patri Roberto eadem gratia Cantuariensi archiepiscopo, totius Angliae primati, salutem. Quia super quibusdam arduis negotiis nos et regnum nostrum ac vos ceterosque praelatos de eodem regno tangentibus, quae sine vestra et eorum praesentia nolumus expediri, parliamentum nostrum tenere et vobiscum super hiis colloquium habere volumus et tractatum: vobis mandamus, in fide et dilectione quibus nobis tenemini firmiter injungentes quatenus sitis ad nos apud Westmonasterium primo die mensis Augusti proximo futuro, vel saltem infra tertium diem subsequentem ad ultimum, nobiscum super dictis negotiis tractaturi et vestrum consilium impensuri. Et hoc nullo modo omittatis. Teste me ipso apud Album Monasterium XXIIII. die Junii.

Similar letters are directed to the Archbishop of York and the bishops, to the Masters of Sempringham and of the Temple, to the prior of the Hospital, forty-two abbots and eleven priors: *also, mutatis mutandis, to* eleven earls and fifty-three barons: to the Chief Justice and thirty-eight judges and others, including the justices itinerant, justices of assize, and members and clerks of the council.—(*Report on the Dignity of a Peer*, App. i. pp. 64–6.)

No. II. *Summons of the Archbishop and Clergy to Parliament.*

Rex venerabili in Christo patri Roberto eadem gratia Cantuariensi archiepiscopo, totius Angliae primati, salutem. Sicut lex justissima, provida circumspectione sacrorum principum stabilita, hortatur et statuit ut quod omnes tangit ab omnibus approbetur, sic et nimis evidenter ut communibus periculis per remedia provisa communiter obvietur. Sane satis noscis et jam est, ut credimus, per universa mundi climata divulgatum, qualiter rex Franciae de terra nostra Vasconiae nos fraudulenter et cautelose decepit, eam nobis nequiter detinendo. Nunc vero praedictis fraude et nequitia non contentus, ad expugnationem regni nostri classe maxima et bellatorum copiosa multitudine congregatis, cum quibus regnum nostrum et regni ejusdem incolas hostiliter jam invasit, linguam Anglicam, si conceptae iniquitatis proposito detestabili potestas correspondeat, quod Deus avertat, omnino de terra delere proponit. Quia igitur praevisa jacula minus laedunt, et res vestra maxime, sicut ceterorum regni ejusdem concivium, agitur in hac parte, vobis mandamus, in fide et dilectione quibus nobis tenemini firmiter injungentes, quod die Dominica proxima post festum Sancti Martini in hyeme proxime futurum, apud Westmonasterium personaliter intersitis: Praemunientes priorem et capitulum ecclesiae vestrae, archidiaconos, totumque clerum vestrae diocesis, facientes quod iidem prior et archidiaconi in propriis personis suis, et dictum capitulum per unum, idemque clerus per duos procuratores idoneos, plenam et sufficientem potestatem ab ipsis capitulo et clero habentes, una vobiscum intersint, modis omnibus tunc ibidem ad tractandum, ordinandum et faciendum nobiscum et cum ceteris praelatis et proceribus et aliis incolis regni nostri, qualiter sit hujusmodi

periculis et excogitatis malitiis obviandum. Teste Rege apud Wengeham XXX. die Septembris.

Similar letters are directed, mutatis mutandis, to the Archbishop of York and the bishops : *also, omitting the clause* Praemunientes, *to* sixty seven abbots, the Masters of the Temple and of Sempringham, and the prior of the Hospital.—(*Report on the Dignity of a Peer*, App. i. p. 67.)

No. III. *Summons of an Earl to Parliament.*

Rex dilecto consanguineo et fideli suo Edmundo comiti Cornubiae, salutem. Quia super remediis contra pericula quae toti regno nostro hiis diebus imminent providendum, vobiscum et cum ceteris regni nostri proceribus habere volumus colloquium et tractatum ; vobis mandamus, in fide et dilectione quibus nobis tenemini firmiter injungentes, quod die Dominica proxima post festum Sancti Martini in hyeme proxime futurum, apud Westmonasterium personaliter intersitis ad tractandum, ordinandum et faciendum nobiscum et cum praelatis et ceteris proceribus et aliis incolis regni nostri, qualiter sit hujusmodi periculis obviandum. T. Rege apud Cantuariam primo die Octobris.

Similar letters are directed to seven earls, and forty-one barons.—(*Report on the Dignity of a Peer*, App. i. p. 67.)

No. IV. *Summons of Representatives of Shires and Towns to Parliament.*

Rex vicecomiti Norhamtesirae. Quia cum comitibus, baronibus et ceteris proceribus regni nostri, super remediis contra pericula quae eidem regno hiis diebus imminent providendum, colloquium habere volumus et tractatum, per quod eis mandavimus quod sint ad nos die Dominica proxima post festum Sancti Martini in hyeme proxime futurum apud Westmonasterium, ad tractandum, ordinandum, et faciendum qualiter sit hujusmodi periculis obviandum ; tibi praecipimus firmiter injungentes quod de comitatu praedicto duos milites et de qualibet civitate ejusdem comitatus duos cives, et de quolibet burgo duos burgenses, de discretioribus et ad laborandum potentioribus, sine dilatione eligi, et eos ad nos ad praedictos diem et locum venire facias : ita quod dicti milites plenam et sufficientem potestatem pro se et communitate comitatus

praedicti, et dicti cives et burgenses prò se et communitate civitatum et burgorum praedictorum divisim ab ipsis tunc ibidem habeant, ad faciendum quod tunc de communi consilio ordinabitur in praemissis; ita quod pro defectu hujusmodi potestatis negotium praedictum infectum non remaneat quoquo modo. Et habeas ibi nomina militum, civium et burgensium et hoc breve. T. Rege apud Cantuariam III. die Octobris. —(*Report on the Dignity of a Peer*, App. i. p. 66.)

No. V. *Writ for Collection of an Aid.*

Rex militibus et libere tenentibus et toti communitati comitatus Rotelandae, salutem. Cum comites, barones, milites et alii de regno nostro, in subsidium guerrae nostrae nunc, sicut alias nobis et progenitoribus nostris regibus Angliae, liberaliter fecerunt undecimam de omnibus bonis suis mobilibus; et cives, burgenses, et alii probi homines de dominiis nostris, civitatibus et burgis ejusdem regni septimam de omnibus bonis suis mobilibus, exceptis hiis quae in decima ultimo nobis concessa excipiebantur, nobis curialiter concesserint et gratanter: Nos, ut undecima et septima praedictae ad minus damnum et gravamen populi dicti regni nostri leventur et colligantur, providere volentes, assignavimus dilectos et fideles nostros Robertum de Flixthorpe et Johannem de Wakerle personam ecclesiae de Westona, vel alterum ipsorum, quoties ambo, altero eorum gravi infirmitate praepedito, interesse non possunt, ad dictas undecimam et septimam in comitatu praedicto assidendas, taxandas, levandas et colligendas, et ad scaccarium nostrum deferendas et ibidem solvendas ad terminos subscriptos; videlicet unam medietatem citra festum Purificationis Beatae Mariae proximo futurum, et aliam medietatem citra festum Pentecostes proximo sequentis. Et ideo vobis mandamus quod praedictis Roberto et Johanni in praemissis sitis intendentes, respondentes, consulentes et auxiliantes, in forma praedicta, prout ipsi vobis scire facient ex parte nostra. In cujus etc. Teste Rege apud Westmonasterium IIII. die Decembris.—(*Foedera*, i. 833.)

A. D. 1297. Confirmation of the Charters.

More than half of the year 1296 was spent by Edward in the conquest and settlement of Scotland. The war with France was conducted in the meantime by Edmund of Lancaster, who

died in July; but the constant negotiations for a truce gave the king time to draw closer his chain of alliances with the Germans and Flemings, and to prepare for inflicting a deadly blow on Philip the Fair. On the 26th of August, at Berwick-upon-Tweed, the writs of summons were issued, calling a parliament at Bury S. Edmunds for the 3rd of November. These writs were addressed as in 1295: to the archbishops and bishops, with the *praemunientes* clause; to the abbots, priors, and heads of orders; to the earls and barons; and to the sheriffs, commanding the election and return of knights, citizens, and burgesses. On the 24th of September a supplementary writ was directed to the citizens and *probi homines* of twenty-two principal towns, ordering the election of two of their number to meet the king at S. Edmunds on the day fixed for the parliament, to give him, in conjunction with four elected citizens of London, their advice on a new constitution for the town of Berwick. This writ perhaps indicates the way in which on former occasions the merchants of the great towns had been consulted, and is analogous to the summons of the boroughs to the council at Shrewsbury in 1283.

In the parliament which assembled on the 3rd of November the line of proceedings which had been taken in 1295 was followed. The barons and knights who had then granted an eleventh, now granted a twelfth; and the citizens and burgesses who had granted a seventh, now granted an eighth. But the clergy were unable to follow the example. Boniface VIII had on the 24th of February, 1296, in the bull *Clericis laicos*, absolutely forbidden the payment by the clergy to laymen of any tax whatever on the revenues of their churches. The archbishop alleged to the king the impossibility of evading this command, and the writs for the collection of the lay grant being issued, the discussion of the clerical one was postponed to the feast of S. Hilary, 1297. In preparation for this meeting, Archbishop Winchelsey, not content with the assembling of the clergy under the royal writ, summoned a very large council

at S. Paul's. His mandate was addressed, on the usual plan for convocation, to the Bishop of London, but ordered the summons of the bishops, the deans, precentors, chancellors and treasurers of the cathedrals, the archdeacons, abbots, priors and heads of collegiate churches, a single proctor to represent each chapter, and two the clergy of each diocese. The assembly was an anomalous one, but must have contained every well-endowed priest in the province of Canterbury. The mandate was dated November 27. The difficulty raised by the pope's inhibition did not diminish on further consideration. The clergy persisted in their refusal of a grant, and the king put them out of his protection, practically outlawing the whole body, and confiscating the estates of the see of Canterbury. This alarming proceeding gave some of the clergy an opportunity of yielding: it was one thing to pay a tax, another to ransom themselves from outlawry; the money that was refused as an aid was forthcoming in the shape of a fine. But the assembled convocation and the archbishop could not so temporize. On the seventh day of the council two bishops were sent to treat with the king, and matters remained as they were until the next meeting of parliament. This was to be on S. Matthias's Day, the 24th of February, for which day the summonses were issued, but to the baronage only; the session was to be at Salisbury: the clergy, even the prelates in their baronial capacity, were studiously ignored. This meeting of the baronage is entitled a parliament, both in the endorsement of the writ and by the historians. The resistance of the clergy to the royal demands had proved infectious. The king laid his plans for the war before the baronage; he proposed to go to Flanders in person, and requested some of the earls to undertake the expedition to Gascony. He was met by a flat refusal from the constable and marshal; they would undertake no service abroad but in attendance on the sovereign. An undignified personal altercation between the king and the earl marshal followed; and the assembly broke up in confusion.

The earls retired to their estates, and prepared to resist the king in arms. Edward, yielding again to the temptation to arbitrary exaction, seized the wool of the merchants, paying for it by tallies, and levied a large amount of provisions on the counties in the same way. This reckless proceeding united all classes against him—the clergy outlawed, the baronage in arms, and the merchants beggared.

The condition of the clergy was already felt to be intolerable. Before the result of the Salisbury parliament was known, the archbishop summoned a new convocation for the 26th of March. His mandate to the Bishop of London orders the assembling of the bishops, abbots, priors, and deans, the chapters of the several cathedrals by a single proctor for each, and the parochial clergy also by one representative of each diocese. In this council the archbishop seems to have receded somewhat from his former position, and he wound up the discussion by recommending the clergy to act each man on his own responsibility; 'salvet suam animam unusquisque.'

Edward proceeded in his preparations for the war, not without watching the progress of events, but only recognizing it in his public acts so far as was absolutely necessary. His obligations to his allies forbade his drawing back: and his own sense of prudence warned him that it was of no use to postpone the crisis. On the 15th of May he issued writs for a military levy of the whole kingdom to meet at London on the 7th of July: these are addressed to the barons, bishops, and sheriffs, the latter of whom were to enjoin the attendance in arms of all persons holding lands to the value of £20 per annum.

On the 7th of July the crisis came: the military force met: the earl marshal and constable refused to perform their official duties, and being superseded thereupon by two other officers, left the court. The Archbishop of Canterbury reconciled himself with the king, and had his estates restored: and Edward prevailed upon the barons and commons who continued with

him to make a money grant. This proceeding was unconstitutional in the extreme : the leading men, who had not been sent to London for any such purpose, assembled in the royal chamber ; and although in no respect a parliament, or qualified to act as one, granted an eighth of the movables of the barons and knights, and a fifth of those of the cities and boroughs. The reward of this concession was to be the confirmation of the Great Charter and of the Charter of the Forest. The king then asked the archbishop for a grant, and he immediately summoned a convocation to meet at the New Temple on the 10th of August. The mandate states the condition of affairs to be alarming, and the purpose of the meeting to be to obtain the confirmation of the charters. It is dated on the 16th of July, and contains the first intimation that the confirmation of the charters had been brought in question. The archbishop, now restored to the king's confidence, next undertook, in conjunction with several other bishops, to negotiate with the barons. On the 19th he proposed to meet them at Waltham, Barking, or Stratford, on any day they might name. They consented to a parley at Waltham, and on the 23rd the archbishop fixed for the day of the interview the 27th. On that day, instead of the two earls, Robert Fitz Roger and John Segrave met the archbishop, and accompanied him to S. Albans, to visit the king on the 28th and to receive safe-conducts for the earls. The earls, however, neither presented themselves in person nor sent excuses ; and on the 30th the king ordered the collection of the fifth and eighth : proceeding shortly after to Winchelsea, where he proposed to embark. The writ directing the collection specifically declares the confirmation of the charters to be the ground of the grant.

The convocation met on the 10th of August, and replied to the king's request, that they entertained good hope of procuring the assent of the pope to their granting an aid. On the strength of this promise Edward, on the 20th, issued an order for the collection of a third of the temporal goods of the clergy ;

their lay fees are to be taxed with those of the laity: their spiritual revenues, tithes, and offerings are not to be taxed, but whoever will compound by a fifth of all revenue, temporal and spiritual, will be allowed to do so. In the meantime, on the 12th of August the king had published a statement of his case by letters patent, as against the earls, appealing to the people to maintain the peace during his absence.

After this appeal, it would seem, he received from the earls the statement of their claims, framed as a gravamen of the whole community, demanding relief from the heavy taxation imposed unconstitutionally by the king, redress from the hardships inflicted contrary to the charters, and the relaxation of the new custom imposed on wool in the preceding Lent. (See pp. 434–5.) The king replied that he could not now return a specific answer: he was at a distance from his council, and trusted that they would maintain the peace until his return. On the 19th he wrote to forbid the archbishop and bishops to excommunicate the officers who were seizing the corn and other goods for his use: a fact which seems to indicate some approximation between the bishops and the malcontent earls. On the 22nd he sailed, leaving his son Edward regent, with Reginald de Grey as his chief counsellor.

The departure of the king gave the earls the opportunity they had waited for. On the 23rd they appeared in the Exchequer, and formally forbade the barons to proceed in the collection of the aid before the promised confirmation of the charters had taken place. To this demonstration the young regent replied on the 28th by a proclamation, that the collection of the eighth should not be drawn into a precedent. No more is heard of the fifth which, according to the king, had been granted by the boroughs.

Two days before he embarked, the king had summoned to his son's assistance a large number of knights and barons, who were to meet at Rochester for a *Colloquium* on the 8th of September; before that day, however, it had been determined

to call a more complete council for the 30th, to which the archbishop and the earls were invited by a writ dated on the 9th. It would appear probable that the turning-point in the regent's councils should be fixed to this date. On the fifth of the month a summons is addressed to the bishop of London, and several others of the royalist side; it is not until the 9th that the archbishop, the marshal, and constable are summoned. If this were so, the necessity for further concession must have become quickly apparent: for on the 15th, a fortnight before the date of the proposed council, writs of election of representatives of the Commons were addressed to the sheriffs. The writs declare that the king is determined to confirm the charters in consideration of the aid of an eighth, and the representatives are summoned to receive their copies of the famous privileges on the 6th of October. This assembly was certainly called in an informal manner, the writs of the bishops containing no mention of the clergy, and those of the whole baronage, clerical and lay, fixing a day of meeting a week earlier than that fixed for the Commons. In other respects it was a sufficient parliament. It met as appointed, and received the confirmation promised in the summons. The whole of the proceedings were, however, tumultuary. The two earls appeared with a large military force, and prescribed the terms, supplementary to the charter, which they had already presented to the king. The prince, under the advice of his council, accepted them; confirmed the charters with these additions, and dispatched them to his father for further corroboration. On the 10th of October, not content with the granting of their demand, the earls insisted further that the illegal proceedings taken in the granting of the aid should be treated as null. Not even the grant of the eighth was allowed to be legal; a new grant was made, of a ninth, by the whole of the laity in parliament, and then the strife ceased. The two charters were further confirmed by *inspeximus* on the 12th of October; and the clergy of the southern province granted

a tenth, those of the northern a fifth, in aid of the war with Scotland.

The above is a bare chronological statement of the two trains of events which led to this great and most important act; the one starting from the bull *Clericis laicos*, the other from the refusal of the earls to go to Gascony without the king. Here, as in the events which led to the Great Charter, we trace two distinct but concurrent forces, supplementing each other; each of them the summation of a series of accumulating influences, but timed by an extraordinary coincidence, through the king's necessities. Neither the heavy imposts laid on the clergy, nor the demand of foreign service from the earls, nor the seizure of the wool by the king, has any direct technical bearing on the question of the confirmation of the charters of King John. Yet these charters are the rallying-point of the oppressed and offended; the essence, as it was thought, of the constitution. If the actual effects of the two distinct forces are carefully examined, it will be seen that whilst the confirmation of the charters is due mainly to the action of Archbishop Winchelsey, the addition of the new articles seems to be the result of the measures of the earls. It would be too much to suppose that Winchelsey was to them what Langton had been to the barons at Runnymede, nor is there clear evidence that he was acting in concert with them after his reconciliation with Edward. The additional articles may, however, have been drawn up with his concurrence before the reconciliation, and they certainly appear as the gravamina of the whole estates of the realm. (See p. 435.)

The confirmation of his son's act by the king at Ghent in November did not entirely satisfy the barons. In the summer of 1298 the two earls demanded a second assurance as a condition of service in Scotland; and a further formal confirmation was made by the king in consequence on the 8th of March, 1299, with a provision saving the rights of the crown. This form did not content the people; and the process was repeated

without the salvo. A delay in carrying out the process of disforesting under the Carta de Foresta produced a new suspicion, and the charters were again confirmed, March 6, 1300, in a statute called 'Articuli super Cartas,' an important act, containing many alleviations of popular complaints, but not repeating the points conceded on the 10th of October, 1297. A final confirmation was bestowed in 1301, when, after the completion of the perambulation of the forests, the king, at the parliament of Lincoln, issued letters patent confirming the charters, it is said, for the thirty-second time. It is memorable that in all these confirmations the constitutional articles of the Charter of John, omitted in the re-issue of 1216, were never replaced.

I. EDWARD par la grace de Dieu, roy d'Engleterre, seygneur d'Irlaunde et ducs d'Aquitaine, a toutz ceuz qui cestes presentes lettres verrount ou orrount, saluz. Sachiez nous a l'honeur de Dieu e de seinte Eglise e a profist de tout nostre roiaume, avoir graunté pur nous et pur nos heyrs, qe la graunt chartre des fraunchises et la chartre de la foreste les queles feurent faites par commun asent de tout le roiaume en le temps le roi Hanry nostre pere, soient tenues en touz leur pointz, saunz nul blemissement. E volums qe meismes celes chartres desouz nostre seal soient envieez a noz justices, ausi bien de la forest, sicume as autres, e a touz les viscountes des counteez, e a toutz nos autres ministres, e a toutes noz cyteez par my la terre, ensemblement ove nos brefs, en les quieux serra countenu k'il facent les avauntdites chartres puplier, e ke il facent dire au pueple ke nous les avuns grauntées de tenir les en toutz leur pointz; e a nos justices, viscountes, e maires e autres ministres, qui la loy de la terre desoutz nous et par nous ount a guier, meismes les chartres en toutz lur pointz, en pledz devaunt eaux e en jugementz les facent alower; c'est a savoir la grande chartre des franchises cume loi commune, e la chartre de la forest solounc l'asise de la forest, a l'amendement de nostre poeple.

II. E volums ke si nuls jugementz soient donez desoremes encountre les pointz des chartres avauntdites, par justices e par nos autres ministres qui countre les pointz des chartres tienent pledz devant eaux, soient defez e pur nyent tenuz.

III. E voloms ke meismes celes chartres desoutz nostre sela

soient envieez as eglises cathedrales parmi nostre roiaume e la demoergent ; e soient deus fiez par an lues devaunt le poeple.

IV. E ke arceeveesques evesques doingnent sentences du grant escumenger countre touz ceaux qui countre les avauntdites chartres vendrount, ou en fait, ou en ayde, ou en consal, ou nul poynt enfreindrent, ou encountre vendrount. E ke celes sentences soient denunciez e pupliez deux foyz par an par les avantditz prelas. E si meismes les prelas, evesques, ou nul d'eux soient necgligentz a la denunciaciun susdite faire, par les arceevesques de Caunterbire e de Everwyk, qui pur temps serrount, sicume covyent, soient repris et destreintz a meismes cele denunciaciun fere en la fourme avauntdite.

V. E pur coe ke aukune gentz de nostre roiaume se doutent qe les aides e les mises, les queles il nous unt fait avaunt ces houres pur nos guerres e autres busoignes, de leur graunt e de leur bone volenté, en quele manere qe fez soient, peussent tourner en servage a eux, e a leur heyrs, par coe qil serroient autrefoytz trovez en roulle, e ausint prises qe unt esté faites par my le roiaume par nos ministres, en nostre noun, avuns granté pur nous et pur nos heyrs, qe mes teles aydes, mises, ne prises, ne trerroms a coustume, pur nule chose qe soit fayte ou ke par roule ou en autre manere pust estre trovee.

VI. E ausint avuns graunté pur nous e pur nos heyrs as arceevesques, evesques, abbées, priours, e as autre gentz de seint eglise, e as countes e barouns e a toute la communauté de la terre, qe mes pur nule busoignie tieu manere des aydes, mises, ne prises, de nostre roiaume ne prenderons, fors ke par commun assent de tout le roiaume, e a commun profist de meismes le roiaume, sauve les auncienes aydes e prises dues e acoustumées.

VII. E pur coe ke tout le plus de la communauté del roiaume se sentent durement grevez de la male toute des leynes, c'est asaver de chescun sac de leyne quarante sous, e nous unt prié ke nous les vousissions relesser, nous a leur priere les avuns pleinement relessé ; e avuns graunte que cele ne autre mes ne prendrons, sauntz leur commun assent e lur bone volente ; sauve a nous e a nos heyrs la coustume des leynes, peaux e quirs avaunt grauntez par la communauté du roiaume avauntdit. En tesmoinaunce de quieux choses nous avuns fait faire cestes nos lettres overtes. Donées à Gaunt le quint jour de novembre l'an de nostre regne vintisme quint.

TRANSLATION.

I. Edward, by the grace of God, King of England, Lord of Ireland, and Duke of Aquitaine, to all those that these present letters shall hear or see, greeting. Know ye that we to the honour of God and of holy Church, and to the profit of all our realm, have granted for us and our heirs, that the Great Charter of Liberties and the Charter of the Forest, which were made by common assent of all the realm, in the time of King Henry our father, shall be kept in every point without breach. And we will that these same charters shall be sent under our seal to our justices, both to those of the forest and to the rest, and to all sheriffs of shires, and to all our other officers, and to all our cities throughout the realm, together with our writs in the which it shall be contained, that they cause the aforesaid charters to be published, and have it declared to the people that we have granted that they shall be observed in all points, and that our justices, sheriffs, mayors, and other officials which under us have to administer the laws of our land, shall allow the said charters in pleas before them and in judgements in all their points ; that is to wit, the Great Charter as the common law and the Charter of the Forest according to the Assize of the Forest, for the relief of our people.

II. And we will that if any judgement be given from henceforth, contrary to the points of the charters aforesaid, by the justices or by any other our ministers that hold plea before them against the points of the charters, it shall be undone and holden for naught.

III. And we will that the same charters shall be sent under our seal to cathedral churches throughout our realm, and there remain, and shall be read before the people twice in the year.

IV. And that archbishops and bishops shall pronounce sentences of greater excommunication against all those that by word, deed, or counsel shall go against the foresaid charters, or that in any point break or go against them. And that the said curses be twice a year denounced and published by the prelates aforesaid. And if the same prelates or any of them be remiss in the denunciation of the said sentences, the Archbishops of Canterbury and York for the time being, as is fitting, shall reprove them and constrain them to make that denunciation in form aforesaid.

V. And for so much as divers people of our realm are in fear that the aids and mises which they have given to us beforetime towards our wars and other businesses, of their own grant and goodwill, howsoever they were made, might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and so likewise the prises taken throughout the realm by our ministers in our name : we have granted for us and our heirs, that we shall never draw such aids, mises, nor prises into a custom for anything that hath been done heretofore or that may be found by roll or in any other manner.

VI. Moreover we have granted for us and our heirs, as well to archbishops, bishops, abbots, priors, and other folk of holy Church, as also to earls, barons, and to all the community of the land, that for no business from henceforth will we take such manner of aids, mises, nor prises from our realm, but by the common assent of all the realm, and

for the common profit thereof, saving the ancient aids and prises due and accustomed.

VII. And for so much as the more part of the community of the realm find themselves sore grieved with the maletote on wools, that is to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release the same; we, at their requests, have fully released it, and have granted that we shall never take this nor any other without their common assent and goodwill; saving to us and our heirs the custom of wools, skins, and leather granted before by the commonalty aforesaid. In witness of which things we have caused to be made these our letters patent. Given at Ghent the fifth day of November in the twenty-fifth year of our realm.—(Bémont, *Chartes des Libertés Anglaises*, p. 96.)

A. D. 1297. De Tallagio non Concedendo.

The following articles are given by Walter of Hemingburgh under the title 'Articuli inserti in Magna Carta,' as the Latin equivalent to the act of confirmation in French: they were referred to as a statute in the preamble to the Petition of Right, and were decided by the judges in 1637 to be a statute. But they are not found in any authoritative record, and are now held to be a draft charter submitted by the earls to the prince Edward at the Michaelmas Parliament of 1297. It will be seen that the omission of any qualifying word before 'tallagium vel auxilium' in the first clause (the *tieu* of the Confirmation, clause vi), and of the saving words in clauses vi and vii of the Confirmation, gives to this document a much greater restrictive force than is possessed by the undoubtedly authentic one. It is certain that Edward did not regard himself as precluded by the act of October 10 from exacting the ancient custom on wool, or from tallaging the towns and demesne, which he did in 1304. The obligations under which the king placed himself must be construed literally from the act just given above.

I. Nullum tallagium vel auxilium per nos vel haeredes nostros de cetero in regno nostro imponatur seu levetur, sine voluntate et assensu communi archiepiscoporum, episcoporum et aliorum praelatorum, comitum, baronum, militum, burgensium et aliorum liberorum hominum in regno nostro.

II. Nullus minister noster vel haeredum nostrorum capiat blada, lanas, coria, aut aliqua alia bona cujuscunque, sine voluntate et assensu illius cujus fuerint hujusmodi bona.

III. Nihil capiatur de cetero, nomine vel occasione malae toltae, de sacco lanae.

IV. Volumus etiam et concedimus pro nobis et haeredibus nostris, quod omnes clerici et laici de regno nostro habeant omnes leges, libertates et liberas consuetudines suas ita libere et integre sicut eas aliquo tempore plenius et melius habere consueverunt. Et si contra illas vel quemcunque articulum in praesenti carta contentum statuta fuerint edita per nos vel per antecessores nostros, vel consuetudines introductae, volumus et concedimus quod hujusmodi consuetudines et statuta vacua et nulla sint in perpetuum.

V. Remisimus etiam Humfrido de Bown, comiti Herefordise et Essexie, constabulario Angliae, Rogero Bygot comiti Norffolciae, marescallo Angliae, et aliis comitibus, baronibus, militibus, armigeris, Johanni de Ferrariis ac omnibus aliis de eorum societate, confoederatione et concordia existentibus, necnon omnibus viginti libratas terrae tenentibus in regno nostro, sive de nobis in capite sive de alio quocunque, qui ad transfretandum nobiscum in Flandriam certo die notato vocati fuerunt et non venerunt, rancorem nostrum et malam voluntatem quam ex causis praedictis erga eos habuimus ; et etiam transgressiones si quas nobis vel nostris fecerint usque ad praesentis cartae confectionem.

VI. Et ad majorem hujus rei securitatem volumus et concedimus pro nobis et haeredibus nostris, quod omnes archiepiscopi et episcopi Angliae, in perpetuum in suis cathedralibus ecclesiis habita praesenti carta et lecta, excommunicent publice et in singulis parochialibus ecclesiis suarum diocesium excommunicare seu excommunicatos denunciare faciant, bis in anno, omnes qui contra tenorem praesentis cartae, vim et effectum in quocunque articulo scienter fecerint, aut fieri procuraverint, quoquomodo. In cujus rei testimonium praesenti cartae sigillum nostrum est appensum, una cum sigillis archiepiscoporum, episcoporum, comitum, baronum et aliorum qui sponte juraverunt quod tenorem praesentis cartae, quatenus in eis est, in omnibus et singulis articulis observabunt, et ad ejus observationem consilium suum et auxilium fidele praestabunt in perpetuum.—(*W. de Hemingburgh,* ii. 153, 154.)

A.D. 1300. Summons to the Parliament of Lincoln.

This writ, issued in September 1300, is especially curious as directing the return to the new parliament, to be held the next January, of the representatives of the counties and boroughs who had served in the preceding one. The reason of this probably was, that the session was held to receive the report of the perambulations, the arrangements for which had been made in the last parliament.

It was in this parliament that the charters received their last confirmation, February 14, 1301. An aid of a fifteenth was voted in consequence. Here also was drawn up the reply of the nation to the letter of Boniface VIII claiming the superiority over Scotland.

Rex vicecomiti Cumbriae, salutem. Cum nuper pro communi utilitate populi nostri *etc. etc.* tibi praecipimus firmiter injungendo quod venire facias coram nobis ad parliamentum nostrum apud Lincolniam in octavis Sancti Hilarii proximo futuri duos milites de balliva tua, illos videlicet qui pro communitate comitatus praedicti ad parliamentum nostrum ultimo praeteritum per praeceptum nostrum venerunt, et etiam de qualibet civitate infra ballivam tuam eosdem cives, et de quolibet burgo eosdem burgenses qui ad praedictum parliamentum nostrum alias sic venerunt. Et si forte aliquis militum, civium aut burgensium praedictorum, mortuus fuerit aut infirmus, per quod ad dictos diem et locum venire nequiverint, tunc loco illius mortui aut infirmi unum alium idoneum ad hoc eligi et ad dictum parliamentum nostrum venire facias : ita quod milites, cives et burgenses praedicti dictis die et loco modis omnibus intersint cum plena potestate audiendi et faciendi ea quae ibidem in praemissis ordinari continget pro communi commodo dicti regni. Et eisdem militibus de communitate comitatus praedicti, civibus de civitatibus, et burgensibus de burgis praedictis, rationabiles expensas suas habere facias, in veniendo ad dictum parliamentum nostrum, ibidem morando, et etiam redeundo. Tibi insuper praecipimus sicut prius quod per totam ballivam tuam sine dilatione publice facias proclamari, quod omnes illi qui terras aut tenementa habent infra metas forestae nostrae in

balliva tua, et qui perambulationem in aliquo calumniari voluerint, quod sint coram nobis in parliamento nostro praedicto, ostensuri in hac parte rationes suas et calumnias si quas habent. Et habeas ibi nomina praedictorum militum, civium et burgensium, et hoc breve. T. R. apud la Rose, XXVI. die Septembris.—(*Parliamentary Writs*, i. 90.)

A.D. 1303. Writ of Summons to a 'Colloquium' of Merchants.

The heavy expenses of the French and Scottish wars compelled the king to look about him for new sources of revenue. In 1302 he had fallen back on the aid 'pur fille marier', which had been voted in 1290 but never paid. He now attempted to get the consent of the merchants to raise the custom on wine, wool, and merchandise. The assembly called is anomalous, but would, if it had been submissive, have given him authority sufficient to enable him to approach the parliament with a plausible case. The opposition, however, was very strong, and the project dropped.

Edwardus Dei gratia etc., majori et vicecomitibus Londoniarum, salutem. Quia intelleximus quod diversi mercatores regni nostri, ut ipsi de prisis nostris quieti esse et diversis libertatibus per nos mercatoribus extraneis et alienigenis concessis uti valeant et gaudere, nobis de bonis et mercandisis suis solvere volunt quasdam novas praestationes et custumas quas dicti mercatores extranei et alienigenae nobis de bonis et mercandisis suis solvunt infra regnum et potestatem nostram; nos volentes super praemissis cum mercatoribus dicti regni nostri habere colloquium et tractatum; vobis praecipimus quod de civitate nostra praedicta duos vel tres cives venire faciatis ad scaccarium nostrum Eboraci, ita quod sint ibidem in crastino Sancti Johannis Baptistae proximo futuro, cum plena potestate pro communitate civitatis nostrae praedictae, ad faciendum et recipiendum quod tunc de nostro et eorum ac mercatorum dicti regni nostri consilio et assensu ordinabitur in praemissis; et habeatis ibi tunc hoc breve. T. me ipso apud Novum castrum super Tynam, VIII. die Maii, anno regni nostri XXXº Iº.

Forty-two towns sent representatives:

Qui omnes venerunt XXV. die Junii coram consilio domini regis apud Eboracum per summonitionem brevis supradicti, et dixerunt unanimi consensu et voluntate, tam pro se ipsis quam pro communitatibus civitatum et burgorum supradictorum, quod ad incrementum maltolliae nec ad custumas in praedicto brevi contentas, per alienigenas et extraneos mercatores domino regi concessas, nullo modo consentient nisi ad custumas antiquitus debitas et consuetas.—(*Parliamentary Writs*, i. 134, 135.)

A.D. 1304. Writ for the Collection of Tallage.

This is another monument of Edward's financial difficulties and ingenuity. The right of tallaging demesne was not formally taken from the king by the act of October 10, 1297, although it was contrary to the interpretation of that act in the 'De Tallagio non Concedendo'. This exaction, however, in conjunction with the attempt to raise the custom on wool in 1303, and the absolution obtained in 1305 from Clement V from the observance of the Confirmation of Charters, are made a ground of accusation of bad faith against Edward. The second of these counts is of no importance. The exaction of the tallage was the act of a man of very precise and legal mind, in great financial difficulty, avoiding a breach of the letter of the law: supposing a simple tallage not to be contrary to his obligations. The Bull of Clement V rehearses no more than is true of the compulsion by which the Confirmation of Charters was wrested from the young Edward: but the real answer to the charge inferred from it is that Edward did not act upon the absolution.

Rex dilectis et fidelibus suis, Rogero de Hegham, Waltero de Gloucestria, et Johanni de Sandale, salutem. Sciatis quod constituimus vos vel duos vestrum ad assidendum tallagium nostrum in civitatibus, burgis et dominicis nostris infra comitatus Kanciae, Middlesexiae, Londoniae, Surreiae et Sussexiae, separatim per capita vel in communi, prout ad commodum nostrum magis videritis expedire: et ideo vobis mandamus quod sine dilatione accedatis ad civitates, burgos et dominica praedicta, ad dictum tallagium secundum faculta-

tem tenentium eorundem civitatum, burgorum et dominicorum, assidendum in forma praedicta; ita quod tallagium illud ad citius quod poteritis assideatur; et quod divitibus non deferatur nec pauperes nimis in hac parte graventur. Et extractus totius tallagii praedicti liberetis sub sigillis vestris certis personis per vos eligendis ad tallagium illud sine dilatione levandum et nobis ad scaccarium nostrum inde respondendum. Et talem circa praemissa expedienda diligentiam apponatis quod vos inde merito commendare debeamus, nullatenus omittentes quin sitis ad scaccarium praedictum quam cito commode poteritis, ad certificandum thesaurario et baronibus nostris de eodem scaccario de eo quod feceritis in praemissis. Mandavimus enim vicecomitibus nostris comitatuum praedictorum, quod, cum a vobis vel duobus vestrum fuerint praemuniti, venire faciant coram vobis vel duobus vestrum omnes illos de civitatibus, burgis et dominicis, quos ad dictum tallagium assidendum videritis necessarios, et vobis ad hoc sint auxiliantes et intendentes, prout eis injungetis ex parte nostra. In cujus, etc. Teste Rege apud Dunfermelyn, VI° die Februarii, anno etc. XXXII°.—(*Rolls of Parliament*, i. 266.)

A.D. 1283–4. Charter of Edward I to Nottingham.

The town-charters of Edward I are usually little more than confirmations of those granted by his predecessors; though, like those of his father, they sometimes enlarge or define more exactly the privileges of citizenship. The charter printed below is remarkable as creating a mayor and defining the method of his election. It will be noticed that nothing is said as to the necessity of obtaining from the crown a confirmation of the election made by the citizens. The old ferm of the city was £52, which is here increased to £60 on account of the new charter. Under John's charter the city had been governed by an elected reeve, removable at the king's pleasure; and by a charter of 8 Henry III the citizens were empowered to elect their own coroners. The two boroughs here referred to are survivals from the Norman period. A new French borough grew up beside the English borough within twenty years of the

Conquest (Domesday Book, i. 280; Stevenson, *Records of Nottingham*, i. 124, 186).

Rex archiepiscopis etc., salutem. Cum nos ob certas transgressiones, quas burgenses et communitas villae nostrae Notingham fecerant ex fiducia libertatum suarum, eandem villam cum omnibus libertatibus ad ipsam spectantibus ceperimus et per triennium et amplius detinuerimus in manu nostra: volentes eisdem burgensibus et communitati gratiam facere specialem, eandem villam cum omnibus libertatibus quas burgenses et homines ipsius villae per cartas progenitorum nostrorum, regum Angliae, prius habuerunt restituimus eisdem; concedendo, pro nobis et heredibus nostris, quod iidem burgenses et communitas omnibus eisdem libertatibus eodem modo decetero gaudeant et utantur quo, tempore captionis villae praedictae in manum nostram, eis, juxta tenorem cartarum praedictarum, rationabiliter utebantur; ita quod ipsi et eorum successores reddant de eadem villa nobis et heredibus nostris singulis annis, ad scaccarium nostrum, quinquaginta et duas libras, in forma qua prius eas inde nobis reddere consueverunt, et quod octo libras de incremento nobis et heredibus nostris inde nihilominus reddant annuatim. Et ad relevationem status burgensium et aliorum hominum ejusdem villae, concessimus pro nobis et heredibus nostris, quod ipsi decetero habeant in eadem villa unum Majorem de se ipsis, quem congregatis burgensibus utriusque burgi ejusdem villae singulis annis in festo Sancti Michaelis unanimi consensu et voluntate eligant, ut praesit ballivis et aliis de eadem villa in omnibus quae pertinent ad utriusque burgi ejusdem villae regimen et juvamen. Et quod statim eadem electione facta, eligant unum ballivum de uno burgo et alium de alio burgo, pro diversitate consuetudinum in eisdem burgis habitarum, qui ea quae pertinent ad officium suum exequantur. Et quod ipsi et eorum successores, praeter feriam suam per octo dies ad festum Sancti Matthaei Apostoli durantem, habeant imperpetuum unam aliam feriam in eadem villa singulis annis per quindecim dies duraturam, videlicet in vigilia, in die et in crastino festi Sancti Eadmundi regis et martiris, et per duodecim dies sequentes, nisi feria illa sit ad nocumentum vicinarum feriarum. Quare volumus etc.—(Stevenson, *Nottingham Charters*, p. 18.)

Excerpts from the Modus tenendi Parliamenti.

The treatise here quoted is a somewhat ideal description of the constitution of parliament towards the end of the fourteenth century, and is a fitting appendix to the series of documents given in this volume. Its authenticity has been bitterly assailed, and it is of course absurd to regard it as a relic of the times of the Conqueror. But it is not therefore a modern forgery. It is found in manuscripts of the fourteenth century, and although, on reference to contemporary writs and documents, it is found to be frequently misleading, it may be accepted as a theoretical view for which the writer was anxious to find a warrant in immemorial antiquity. The following excerpts are taken from the edition published in 1846 by the late Deputy Keeper of the Records, Sir Thomas Duffus Hardy, and with his permission. (For a discussion of its date see the article by C. Bémont in *Mélanges Julien Havet*, Paris, 1895.)

Hic describitur modus, quomodo parliamentum regis Angliae et Anglicorum suorum tenebatur tempore regis Edwardi filii regis Etheldredi; qui quidem modus recitatus fuit per discretiores regni coram Willelmo duce Normanniae et Conquestore et rege Angliae, ipso Conquestore hoc praecipiente, et per ipsum approbatus, et suis temporibus ac etiam temporibus successorum suorum regum Angliae usitatus.

Summonitio Parliamenti.

Summonitio parliamenti praecedere debet primum diem parliamenti per quadraginta dies.

Ad parliamentum summoneri et venire debent, ratione tenurae suae, omnes et singuli archiepiscopi, episcopi, abbates, priores, et alii majores cleri, qui tenent per comitatum vel baroniam, ratione hujusmodi tenurae, et nulli minores nisi eorum praesentia et eventus aliunde quam pro tenuris suis requiratur, ut si sint de consilio regis, vel eorum praesentia necessaria vel utilis reputetur ad parliamentum; et illis tenetur rex ministrare sumptus et expensas suas de veniendo et morando ad parliamentum; nec debent hujusmodi clerici minores summoneri ad parliamentum, sed rex solebat talibus

pariter mittere brevia sua rogando quod ad parliamentum suum interessent.

Item, rex solebat facere summonitiones suas archiepiscopis, episcopis, et aliis exemptis personis, ut abbatibus, prioribus, decanis, et aliis ecclesiasticis personis, qui habent jurisdictiones per hujusmodi exemptiones et privilegia separatim, quod ipsi pro quolibet decanatu et archidiaconatu Angliae per ipsos decanatus et archidiaconatus eligi facerent duos peritos et idoneos procuratores de proprio archidiaconatu ad veniendum et interessendum ad parliamentum, ad illud subeundum, allegandum et faciendum idem quod facerent omnes et singulae personae ipsorum decanatuum et archidiaconatuum, si ibidem personaliter interessent. . . .

De Laicis.

Item, summoneri et venire debent omnes et singuli comites et barones, et eorum pares, scilicet illi qui habent terras et redditus ad valentiam comitatus vel baroniae integrae, videlicet viginti feoda unius militis, quolibet feodo computato ad viginti libratas, quae faciunt quadringentas libratas in toto, vel ad valentiam unius baroniae integrae, scilicet tresdecim feoda et tertiam partem unius feodi militis, quolibet feodo computato ad viginti libratas, quae faciunt in toto quadringentas marcas ; et nulli minores laici summoneri nec venire debent ad parliamentum, ratione tenurae suae, nisi eorum praesentia aliis de causis fuerit utilis vel necessaria ad parliamentum, et tunc de illis fieri debet sicut dictum est de minoribus clericis, qui ratione tenurae suae ad parliamentum venire minime tenentur.

De Baronibus Portuum.

Item, rex tenetur mittere brevia sua custodi Quinque Portuum quod ipse eligi faciat de quolibet portu per ipsum portum duos idoneos et peritos barones ad veniendum et interessendum ad parliamentum suum, ad respondendum, subeundum, allegandum, et faciendum idem quod baroniae suae, ac si ipsi de baroniis illis omnes et singuli personaliter interessent ibidem ; et quod barones hujusmodi veniant cum warantis suis duplicatis, sigillis communibus portuum suorum signatis, quod ipsi rite ad hoc electi, et attornati sunt, et missi pro baroniis illis, quarum una liberabitur clericis de parliamento, et alia residebit penes ipsos barones. . . .

De Militibus.

Item, rex solebat mittere brevia sua omnibus vicecomitibus Angliae, quod eligi facerent quilibet de suo comitatu per ipsum comitatum duos milites idoneos, et honestos, et peritos, ad veniendum ad parliamentum suum, eodem modo quo dictum est de baronibus portuum, et de warantis suis eodem modo, sed pro expensis duorum militum de uno comitatu non solet poni ultra unam marcam per diem.

De Civibus.

Eodem modo solebat mandari majori et vicecomitibus Londoniarum, et majori et ballivis vel majori et civibus Eboraci et aliarum civitatum, quod ipsi pro communitate civitatis suae eligerent duos idoneos, honestos, et peritos cives ad veniendum et interessendum ad parliamentum eodem modo quo dictum est de baronibus Quinque Portuum et militibus comitatuum ; et solebant cives esse pares et aequales cum militibus comitatuum in expensis veniendo, morando et redeundo.

De Burgensibus.

Item, eodem modo solebat et debet mandari ballivis et probis hominibus burgorum, quod ipsi ex se et pro se eligant duos idoneos, honestos, et peritos burgenses ad veniendum et interessendum ad parliamentum eodem modo quo dictum est de civibus ; sed duo burgenses non solebant percipere pro expensis suis per unum diem ultra decem solidos, et aliquando ultra dimidiam marcam, et hoc solebat taxari per curiam, secundum magnitudinem et potestatem burgi et secundum honestatem personarum missarum. . . .

De Casibus et Judiciis difficilibus.

Cum briga, dubitatio, vel casus difficilis, sit pacis vel guerrae, emergat in regno vel extra, referatur et recitetur casus ille in scriptis in pleno parliamento, et tractetur et disputetur ibidem inter pares parliamenti, et, si necesse sit, injungatur per regem seu ex parte regis, si rex non intersit, cuil bet graduum parium quod quilibet gradus adeat per se, et liberetur casus ille clerico suo in scripto, et in certo loco recitare faciant coram eis casum illum ; ita quod ipsi ordinent et considerent inter se qualiter melius et justius procedi poterit in casu illo, sicut ipsi pro persona regis et eorum propriis personis, ac etiam pro personis

eorum quorum personas ipsi representant, velint coram Deo respondere, et suas responsiones et avisamenta reportent in scriptis, ut omnibus eorum responsionibus, consiliis et avisamentis hinc inde auditis, secundum melius et sanius consilium procedatur, et ubi saltem major pars parliamenti concordet. . . .

De Gradibus Parium.

Rex est caput, principium, et finis parliamenti, et ita non habet parem in suo gradu, et ita ex rege solo est primus gradus ; secundus gradus est ex archiepiscopis, episcopis, abbatibus, prioribus, per baroniam tenentibus ; tertius gradus est de procuratoribus cleri ; quartus de comitibus, baronibus et aliis magnatibus et proceribus, tenentibus ad valentiam comitatus et baroniae, sicut praedictum est in titulo de laicis ; quintus est de militibus comitatuum ; sextus de civibus et burgensibus : et ita est parliamentum ex sex gradibus. Sed sciendum est quod licet aliquis dictorum graduum post regem absentet, dum tamen omnes praemuniti fuerint per rationabiles summonitiones parliamenti, nihilominus censetur esse plenum. . . .

De Modo Parliamenti.

. . . Cancellarius Angliae, thesaurarius, camerarius, et barones de scaccario, justiciarii, omnes clerici et milites regis, una cum servientibus regis ad placita, qui sunt de concilio regis, tenentur interesse secundo die, nisi rationabiles excusationes habeant ita quod interesse non possent, et tunc mittere debent bonas excusationes. . . .

De Pronuntiatione in Parliamento.

Post praedicationem debet cancellarius Angliae vel capitalis justiciarius Angliae, ille scilicet qui tenet placita coram rege, vel alius idoneus, honestus, et facundus, justiciarius vel clericus, per ipsos cancellarium et capitalem justiciarium electus, pronuntiare causas parliamenti, primo in genere, et postea in specie, stando ; et inde sciendum est quod omnes de parliamento, quicumque fuerint, dum loquitur, stabunt, rege excepto, ita quod omnes de parliamento audire valeant eum qui loquitur, et si obscure dicat vel ita basse loquatur, dicat iterato, et loquatur altius, vel loquatur alius pro eo.

De Loquela Regis post Pronuntiationem.

Rex post pronuntiationem pro parliamento rogare debet clericos et laicos, nominando omnes eorum gradus, scilicet

archiepiscopos, episcopos, abbates, priores, archidiaconos, procuratores, et alios de clero, comites, barones, milites, cives, burgenses, et alios laicos, quod ipsi diligenter, studiose et corditer laborent ad pertractandum et deliberandum negotia parliamenti, prout majus et principalius hoc ad Dei voluntatem primo, et postea ad ejus et eorum honores, et commoda fore intellexerint et sentierint. . . .

De Loco et Sessionibus in Parliamento.

Primo, ut praedictum est, rex sedebit in medio loco majoris banci, et ex parte ejus dextra sedebit archiepiscopus Cantuariensis, et ex parte ejus sinistra archiepiscopus Eboraci, et post illos statim episcopi, abbates et priores linealiter, semper tali modo inter praedictos gradus, et eorum loca, quod nullus sedeat nisi inter suos pares ; et ad hoc tenetur senescallus Angliae prospicere, nisi rex alium assignaverit : ad pedem regis dextrum sedebunt cancellarius Angliae et capitalis justiciarius Angliae, et socii sui, et eorum clerici qui sunt de parliamento ; et ad pedem ejus sinistrum sedebunt thesaurarius, camerarius, et barones de scaccario, justiciarii de banco, et eorum clerici qui sunt de parliamento. . . .

De Stationibus Loquentium.

Omnes pares parliamenti sedebunt, et nullus stabit sed quando loquitur, et loquetur ita quod quilibet de parliamento eum audire valeat ; nullus intrabit in parliamentum, nec exiet de parliamento, nisi per unum hostium, et quicumque loquitur rem aliquam quae deliberari debet per parliamentum, stabunt omnes loquentes ; causa est ut audiatur a paribus, quia omnes pares sunt judices et justiciarii.

De Auxilio Regis.

Rex non solebat petere auxilium de regno suo nisi pro guerra instanti, vel filios suos milites faciendo, vel filias suas maritando, et tunc debent hujusmodi auxilia peti in pleno parliamento, et in scriptis cuilibet gradui parium parliamenti liberari, et in scriptis responderi ; et sciendum est quod si hujusmodi auxilia concedenda sunt oportet quod omnes pares parliamenti consentiant, et intelligendum est quod duo milites, qui veniunt ad parliamentum pro comitatu, majorem vocem habent in parliamento in concedendo et contradicendo, quam major comes Angliae, et eodem modo procuratores cleri unius episcopatus majorem vocem habent in parliamento, si omnes sint concordes,

quam episcopus ipse, et hoc in omnibus quae per parliamentum concedi, negari vel fieri debent : et hoc patet quod rex potest tenere parliamentum cum communitate regni sui, absque episcopis, comitibus et baronibus, dumtamen summoniti sunt ad parliamentum, licet nullus episcopus, comes vel baro ad summonitiones suas veniant ; quia olim nec fuerat episcopus, nec comes, nec baro, adhuc tunc reges tenuerunt parliamenta sua ; sed aliter est econtra, licet communitates—cleri et laici—summonitae essent ad parliamentum, sicut de jure debent, et propter aliquas causas venire nollent, ut si praetenderent quod dominus rex non regeret eos sicuti deberet, et assignarent specialiter in quibus eos non rexerat, tunc parliamentum nullum esset omnino, licet archiepiscopi, episcopi, comites et barones, et omnes eorum pares, cum rege interessent : et ideo oportet quod omnia quae affirmari vel infirmari, concedi vel negari, vel fieri debent per parliamentum, per communitatem parliamenti concedi debent, quae est ex tribus gradibus sive generibus parliamenti, scilicet ex procuratoribus cleri, militibus comitatuum, civibus et burgensibus, qui repraesentant totam communitatem Angliae, et non de magnatibus, quia quilibet eorum est pro sua propria persona ad parliamentum et pro nulla alia.

De Partitione Parliamenti.

Parliamentum departiri non debet dummodo aliqua petitio pendeat indiscussa, vel, ad minus, ad quam non sit determinata responsio, et si rex contrarium permittat, perjurus est ; nullus solus de paribus parliamenti recedere potest nec debet de parliamento, nisi optenta inde licentia de rege et omnibus suis paribus, et hoc in pleno parliamento, et quod de hujusmodi licentia fiat rememoratio in rotulo parliamenti, et si aliquis de paribus, durante parliamento, infirmaverit, ita quod ad parliamentum venire non valeat, tunc per triduum mittat excusatores ad parliamentum, quo die si non venerit, mittantur ei duo de paribus suis ad videndum et testificandum hujusmodi infirmitatem, et si sit suspicio, jurentur illi duo pares quod veritatem inde dicent, et si comperiatur quod finxerat se, amercietur tanquam pro defalta, et si non finxerat se, tunc attornet aliquem sufficientem coram eis ad interessendum ad parliamentum pro se, nec sanus excusari potest si sit sanae memoriae.

Departitio parliamenti ita usitari debet :—Primitus peti debet et publice proclamari in parliamento, et infra palacium

parliamenti, si sit aliquis, qui petitionem liberaverit ad parliamentum, cui nondum sit responsum ; quod si nullus reclamet, supponendum est quod cuilibet medetur, vel saltem quatenus potest de jure respondetur, et tunc primo, videlicet, cum nullus qui petitionem suam ea vice exhibuerit reclamet, Parliamentum nostrum licentiabimus.

De Transcriptis Recordorum in Parliamento.

Clerici parliamenti non negabunt cuiquam transcriptum processus sui, sed liberabunt illud cuilibet qui hoc petierit, et capient semper pro decem lineis unum denarium, nisi forte facta fide de impotentia, in quo casu nihil capient. Rotuli de parliamento continebunt in latitudine decem pollices. Parliamentum tenebitur in quo loco regni regi placuerit.

Explicit Modus tenendi Parliamentum.

GLOSSARY

This Glossary does not contain all the French or Anglo-Saxon words explained in the Translations given in the body of the work; nor mediaeval forms of classical words differing in spelling only from the accepted usage; nor has it been thought necessary to specify the ordinary meanings of words the peculiar senses of which only are worth noting, such as *invenire*.

A

Abbatia, an abbey.
Acatum, a purchase. Cf. Fr. *achat;* from the Low Lat. *accaptare*.
Accersire, to summon. Mediaeval form of *arcesso*.
Accipitrarius, the keeper of the hawks.
Acquietare, to acquit, *quietum reddere*.
Acra, an acre. A. S. *æcer*.
Admerciare, to punish by a pecuniary mulct, or amercement.
Adresciare, or **Adreciare**, to give redress. Fr. *adresser*.
Adulterinus, unlawful; applied to the castles erected without royal licence.
Advocare, to avouch, to vouch to warranty, to recognize as superior lord, and hence to hold an estate as a fief from such a lord.
Advocatio, an advowson, the right of nominating a clerk to a benefice.
Æduituus, a household servant or official.
Aerea, an eyrie.
Affilare, to file, to thread on a string, bills, papers, &c.
Affirmare, (p. 254) to fix the rent of a ferm.
Afforare, to fine, to amerce.
Afforestare, to make into a forest.
Affortiare, to fortify.
Agistamentum, the right of turning cattle into the woods at particular times of the year.
Agistare, to turn cattle into the woods to feed.
Agrarius, relating to the country. *Agrarius miles* is a country knight, or the owner of a knight's fee, as opposed to a courtier or a warrior.
Alanius, an exactor; an obscure and perhaps corrupt word, possibly meaning 'men of Alan de Neville'; he was chief justice of the forests under Henry II.
Aldermannus, an ealdorman of a hundred; (p. 366) an alderman of a borough.
Allec, herring.
Allegiare, to purge oneself by oath or ordeal, *lex*.
Allocare, to allow.
Amerciamentum, a pecuniary mulct.
Amerciare, to punish by a pecuniary mulct.
Amodo, from henceforth.
Andegavensis, Angevin. *Andegavensis moneta*, the money of the county of Anjou, was worth a fourth of the English money of the same name.
Angaria, hardship.
Angylde (*singulare pretium*), the money compensation which a wronged person is entitled to receive.
An-scote, see **Scot** and **Lot**.

Antecessor, ancestor: *assisa de morte antecessoris*, the process by which the heir of a freehold tenant could compel the lord to give him seisin.
Aphaeresis, abbreviation of a word by omitting the first part of it.
Apostolicus, the pope. In med. Fr. *l'apostoile.*
Appellare, to appeal, the term used of a private person bringing a criminal charge. But the word is very frequently used in the regular sense of recourse to a higher tribunal.
Appellum, the act of appealing, or the bringing of a criminal charge by a private person.
Appretiare, to appraise, to value.
Aqua, (p. 179) ordeal by water.
Arca, a chest, a strong-box.
Arentare, to let at a rental.
Arestare, to arrest. Also arrestare. Fr. *arrêter.*
Argentarius, the officer who presides over the assaying of silver in the Exchequer.
Arismeticus, arithmetical.
Armiger, an esquire.
Ascriptitius, bound to the soil; applied to the condition of a *villanus.*
Asportare, to carry away.
Assalire, to assault. Med. Lat. for *assilire.*
Assartum, a clearing in a wood. See **Essartum.**
Assecurare, to assure. Old Fr. *asseurer.*
Assidere, to assess; (p. 218) to have a seat in the Exchequer.
Assisa, an assize: (1) an assessment; (2) a law or edict; (3) a mode of trial prescribed by such a law; (4) the select body employed to carry out the trial; (5) the trial itself.
Assisa, Communis, a tax levied on a shire by the itinerant justices.
Assisus, assessed. Part. of *assideo*, applied to *redditus*, assised rent.
Asturcarius, keeper of the *asturcae*, great hawks.
Atenere, to extend, to hold from such a time onwards.
Attachiamentum, a seizure of person or goods by legal process.
Attachiare, to seize person or goods by legal process.
Attaintus, Attinctus, convicted. Fr. *atteint.*
Atterminare, to appoint a term for hearing.
Attornare, to appoint a substitute.
Aubergel; Aubergellum, a hauberk, a coat of mail. Old High Germ *halsberg* (lit. =neck-protector).
Aureus, the bezant, a foreign gold coin.
Aurum Reginae, a perquisite claimed by the queen from debtors of the Crown (p. 373).
Auxilium, an aid; the feudal contribution so called.
Aventura, an adventure.
Averia, animals used in husbandry. Fr. *avoir.*
Averus, =*affrus*, a farm horse. Fr. *avoir.*

B

Bacheleria, (p. 331) a word of uncertain meaning; used loosely in this place, apparently, for the gentry of England, the landed interest, beneath the rank of barons; but see note on p. 389. The Low Lat. *baccalarius* was originally the owner of a *baccalaria* or grazing farm; from *bacca*=*vacca*, a cow.

Baillia, Baillivus, Bailliva; see **Ballia, Ballivus, Balliva.**

Balistarius, a crossbow-man.

Ballia, Balliva; a charge, an office of trust; translated in English 'a bailiwick,' and sometimes used for the area over which the functions of the office extend; from *bajulare*, to carry.

Ballium, charge.

Ballivus, a bailiff, a person put in charge by his superior. The *praepositus*, or reeve, might be an elective officer, but the bailiff is the nominee of the lord.

Bancus, the bench, the tribunal of judges. Old High Germ. *banc*.

Bannerettus, a banneret; a person knighted on the field of battle; more loosely and obscurely, a nobleman below the degree of baron who leads his retainers under his own banner.

Baro, properly a vassal, = *homo*; but generally a tenant-in-chief holding by barony.

Baronagium, the collected barons, as an estate of the realm.

Baronia, an estate held in chief of the Crown by military tenure.

Bassus, low; **Basse**, in a low voice.

Bedellus, a beadle.

Bell-hus; a bell-tower. The word is sometimes used to denote a church, but more probably means on p. 88 a tower containing the bell which calls the thane's dependants to his court.

Bellum, trial by battle, = *duellum*, pp. 129, 134.

Beneplacitum, good pleasure.

Bercheria, a sheepfold. Fr. *bergerie*, from the Latin *vervex*, or *berbex*.

Bernet, arson.

Bisia, a hind or doe. Fr. *biche*.

Bladum, corn. Fr. *blé*.

Blancus, white. Old High Germ. *blanch*.

Blod-wit, the fine imposed for drawing blood; *forisfactura sanguinis*.

Boc-land, land the possession of which was secured by book, i.e. charter. Is contrasted with *folc-land*, land held by customary law.

Bordarius, an unfree tenant of a manor, holding a cottage and a few acres, and rendering personal service to the lord of the manor. Appears in Domesday Book as distinct from the *cotarius*; but on what grounds is uncertain.

Borh, a surety; *plegium* or *plegius*.

Boscus, wood. Fr. *bois*.

Bot, amends, reparation. Lat. *emenda*.

Botteleria, a buttery.

Bovaria, a cowhouse. Fr. *bouverie*.

Braciare, to brew. Fr. *brasser*.

Braciator, a brewer.

Brasium, Braseum, malt. Pliny gives *brace* as a Gaulish word.

Breve, a writ. Fr. *bref*.

Bred-tol, Brid-tol, or **Brud-tol**, pp. 262, 307, perhaps, = *brycg-tol*, or pontage.

Briga, a dispute. Med. Lat. *brica*, Fr. *brigue*.

Brig-bot, Bric-bot, one of the three obligations of ownership of land, called the *trinoda necessitas*; the repair of bridges, *pontis reparatio*.

Bulla, the seal of gold or lead appended to papal, imperial, and royal letters: hence *the letter* itself, which is properly *epistola bullata*.

Burdare, to joust. Old Fr. *bohourt* or *behourt.*

Burgagium, tenure by which land or houses were held in a borough, equivalent to free and common socage in the country.

Burg-bryce, Burh-bryce, the violation of the special peace belonging to the fortified house of a king or great man, or to a royal borough.

Burgensis, a burgher or burgess.

Burgus, a borough, *burh.*

Burh, a fortress, castle, borough.

Burh-bot, Burebota, *arcis reparatio,* the land-owner's obligation of repairing the defences of local boroughs.

Burh-gemot, meeting of the burghers in council.

Burh-gate seems to denote the court of justice held by a thane at the gate of his fortified residence.

Burh-ware-mot, a meeting of the burghers, *burh-wara.*

Busca, bush or underwood. Old Fr. *busche,* from *bois.*

'Bytt-fylling,' '*buccellorum impletio,*' a filling of butts ; an obscure expression referring probably to the festivities common at the councils or local assemblies of the Anglo-Saxons, especially the guild-meetings.

C

Calculus, a counter.

Calumnia, a claim, not necessarily a false one.

Calumniare, to claim, without the notion of falsehood or chicanery.

Calumniator, a claimant.

Camerarius, a chamberlain, keeper of accounts.

Cancellare, to cancel, to erase by cross-lining.

Cancellarius, a chancellor, the chief clerk of the *curia regis* ; so called from sitting within *cancelli,* a screened partition : occasionally the mediaeval writers derived it from his power of modifying the king's writs by cancelling unjust provisions contained in them.

Capella, the furniture required by a priest for divine service ; a chapel.

Capellet, a head-piece.

Capellum, a head-piece. Fr. *chapeau.*

Capere, '*capere se,*' to take to, to have recourse for satisfaction to seizure of person or goods of an offender.

Capitale, capital, property in cattle or other chattels. **Caput** (as we say a head of cattle), **capitale, captale, catallum** ; whence both *cattle* and *chattels.*

Capitalis, chief ; as *capitalis justitia,* chief justice ; *capitalis dominus,* chief lord.

Capitaneus, a captain.

Capitulum, the chapter of a cathedral, collegiate, or conventual church ; an article or chapter of a document.

Careta, Caretta, Carecta, a cart. Fr. *charrette.*

Carectarius, Caretarius, (sc. *equus*), a cart-horse.

Cariagium, carriage.

Cariare, to carry. Fr. *charrier.*

Caristia, dearth.

Carpentarius, a carpenter.

Caruca, Carruca, a plough. Fr. *charrue.*

Carucagium, a tax levied at so much a plough.

Carucata, Carrucata, the quantity of land that could be ploughed by one plough or team in a season; long varying in extent, according to the locality or the nature of the soil, but fixed in 1194 at 100 acres.

Cassare, to quash.

Catallum, Catellum, a chattel; also the capital of a debt (p. 289); see **Capitale.**

Ceap-gild, market-price; from *ceap,* a market.

Census nemorum, a rent paid by the sheriff to the Crown, for the royal woods in his shire (p. 212).

Centena, a hundred.

Centenarius, the head man of the hundred.

Centuriata, Centuriatus, a hundred.

Ceorl, a churl, originally a freeman who is not noble, in opposition to *eorl*; at a later period = *villanus.*

Certiorare, to make certain.

Cervisia, ale; a Gaulish word, according to Pliny.

Chaceare, to chase. Fr. *chasser.*

Chamberlengeria, the chamberlainship of London.

Childwite, a penalty paid to the lord for impregnating his female villein.

Chiminagium, a tax upon wagons and other carriages going through a forest. Fr. *chemin.*

Chiminum, a road. Fr. *chemin.*

Chirographum, an indenture. a legal document written in duplicate or triplicate.

Ciffus, a cup, *scyphus.*

Cimiterium, a church-yard, cemetery.

Ciric-sceat, a payment made to the parish church at Martinmas; explained as an offering out of the seed-corn.

Clamare, to claim; to complain.

Clamator, a crier of court.

Clamor, a claim; a complaint; hue and cry.

Claustralis, belonging to a cloister or monastery.

Clericus, a clerk.

Clerus, the clergy.

Cnipulus, a pen-knife. Fr. *canif.*

Coadunare, (p. 358) to get together, to get in (the harvest).

Cognoscens, (p. 179) confessing.

Collecta, a collection of money, in alms or taxation.

Collocare, to let at a rent.

Combustio, (p. 179) burning, the crime of arson; (p. 215) the process of trying the silver at the Exchequer.

Comes, a 'gesith' or companion of a lord; in post-Conquest documents, an earl.

Comitatus, a county or shire; the county court or shiremoot.

Comitia, a pedantic expression for a legal assembly, such as the county court.

Commeare, to come backwards and forwards at pleasure, as opposed to *residere,* which implies a fixed position and regular duties.

Communa, Communia, an organized body possessing rights and property in common: applied sometimes to a chartered town, sometimes to the community in general. See pp. 192, 245.

Communitas, a community, like *communa*; latterly it comes to mean the Commons, as an estate of the realm.
Completorium, evensong.
Compotus, Computus, account. Fr. *compte*.
Computator, accountant.
Concanonicus, a fellow-canon.
Concelamentum, concealment.
Concredere, to answer for the credit of a person.
Conductitius, a hired follower.
Conludium, collusion.
Conquisitio, Conquestus, conquest. *Terra de Conquestu*, land acquired by purchase or grant.
Consiliarius, a counsellor; a member of the council.
Consistorium, the bishop's diocesan tribunal.
Constabularius, (p. 208) constable of the king's court, *comes stabuli*, the *staller*; (p. 296) the constable of a castle; (p. 364) the high constable of a hundred or wapentake; (p. 364) the constable of a township.
Consuetudo, custom, often in the sense of customary exaction.
Consul, an earl or count.
Consulatus, a county; a pedantic use of the word.
Consulere, (p. 166) to provide for.
Contenementum, the amount of property necessary for a man to maintain his position (cf. p. 239).
Continuare, to continue; to adjourn.
Contrabreve, counter-brief; the copy of a writ kept in court after the original has been served.
Contra-rotulus, the counter-roll, kept as a check upon the public roll; hence the word *control*.
Contra-talea, counter-tally; the half of the tally kept in the treasury to check the half entrusted to the payer.
Convenire, (p. 166) to make application to a judge; (p. 283) to be agreed; *convenit*, it is agreed; to come together; (p. 80) to be convenient.
Conventio, a covenant; also a voluntary payment made to the Crown, to secure some advantage.
Conventionare, to covenant.
Corditer, cordially, perhaps a clerical error for *concorditer*.
Cornare, to blow a horn.
Coronator, a coroner.
Corrigia, a strap.
Costa, the coast.
Costera, the coast.
Cotarius, a cotter.
Cotsetus, a cotter.
Credentia, credence.
Crementum, increase or profit of a ferm over and above the fixed sum at which it is let.
Crucesignatus, one who has taken the cross to go on crusade.
Cruciatus, a crusader.
Curia, (1) a court of justice (p. 171); (2) right of jurisdiction (p. 297); (3) the court of a house (p. 107); (4) a solemn assembly in the king's presence (p. 152).
Curialis, courteous; adv. *curialiter*, courteously.

Custos, guardian, especially the guardian of heir during his minority.
Custodia, (p. 297) guardianship; (p. 175) the tenure of a county as *custos*, i. e. not at fixed ferm, but as accountable for all particulars.
Custuma, custom, in the sense of fixed tax.
Custus, cost. From *constare*, Fr. *coûter*.
Cynebot, the atonement to the nation for the killing of the king.
Cynedom, the royal dignity.

D

Danegeldum, Danegildum, Danageldum, Danegeld.
Dapifer, a steward.
Deafforestare, to disforest.
Dealbare, to whiten, to blanch; hence our word *daub*. The process of *blanching* a ferm is described in the *Dialogus de Scaccario* i. 6.
Dealbator, a bleacher.
Decanatus, a deanery.
Decania, a tithing.
Decanus, the head man of a tithing; the dean of a chapter.
Decedo, to depart this life, to die.
Decennalis, of the number ten.
Decima, a tithing; a tithe or tenth.
Decurtator, a clipper of coin.
Defalta, Defaltum, default.
Defectus, default.
Defendere, to forbid; *defendere se pro x hidis*, to be assessed at x hides for danegeld and other fiscal purposes.
Defensum, prohibition; the close or fence time for fishing or hunting. Cf. Fr. *défense* and *défendre*. *Defendere* is used in the same way.
Defortiare, to deforce, to dispossess by violence.
Deliberare, to deliver, to set free.
Demanda, a demand or application.
Demandare, (p. 375) to demand or request; to ordain by mandate.
Demenium, demesne, the portion of a manor which the lord retains in his own hands and cultivates by his villeins.
Denageldum, see **Danegeldum.**
Denarius, a penny; (pp. 171, 192) money in general.
Departitio, separation, closing of the session of parliament.
Depauperare, to impoverish.
Depraeditatio, disendowment.
Detonsor, a clipper of coin.
Detruncatio, mutilation.
Dextrarius, a war-horse. Fr. *destrier*.
Diffidare, to defy; in feudal law to repudiate your lord or your vassal.
Disfacere, to defeat, to disregard; also to deface, to mutilate.
Disparagatio, disparagement; in feudal law means the degradation involved in the forced marriage of an heir or heiress to a person of inferior status.
Disratiocinare, Disrationare, to prove one's cause or disprove one's adversary's in a court of law, to prosecute a suit to its determination.
Dissaisiare, Dissaisire, to dispossess.
Dissaisina, dispossession.
Districtio, distraint or distress: sometimes the thing seized in the distraint.

Distringere, to distrain, to compel by seizure of goods.
Disturbare, (p. 177) to prevent the due course of justice by a bribe or by hush-money; commonly, to disturb.
Divisa, a devise by will; the will itself.
Divisa, the boundary of landed property; also a court held on the boundary to settle disputes of the tenants (Old English *mearcgemot*).
Domesmenn, judges.
Dominicum, demesne.
Dominicus, held as demesne, or connected with it.
Dominium, demesne. *Miles super dominium*, a knight unprovided with land, but maintained at his lord's cost to do knight-service.
Dos, dower; the widow's share of the lands of her deceased husband (one-third in case of freehold).
Duellum, trial by battle.
Duitum, a brook.
Dyscolus, perverse: from the Greek.

E

Ealdordom, the jurisdiction of an ealdorman.
Ealdorman, the chief magistrate of a shire. Lat. *dux* or *princeps*, Old High Ger. *heretoga*.
Eberemorth, manifest murder.
Einescia, seniority. Fr. *aînesse*.
Elemosina = (1) alms, (2) land held by the Church free of secular services; frank-almoin.
Elongare, to remove.
Emenda, amends.
Emendare, to make reparation.
Emendatio, reparation, amends; = A. S. *bot*.
Eorlas, noblemen, opposed to *ceorlas*.
Equitatura, the furniture of a horse, or horse-soldier.
Errare, to go on the eyre, or itinerate.
Escaeta, Eschaeta, Eskaeta, Excaeta, the reversion of a fief to the lord, on the extinction or corruption of the blood of the tenant; the estate so escheated. From the Old Fr. *eschoir* = *cadere*, to fall.
Escaetor, an escheater, an officer who received the escheats of the Crown.
Escambium, Excambium, an exchange.
Esnecca, a ship of transport.
Essartum, a clearance in the forest; variously derived from *ex-arare*, *ex-ercere*, *ex-sarrire*; spelled also **assartum**.
Essayum, Essaium, trial, examination by fire; *examen*.
Essonium, an excuse.
Estoverium, Estuverium, wood or other materials, which the tenant may take from the land for fuel, repairs, &c., without being accounted guilty of waste.
Eventus, attendance in parliament.
Ewagium, = *aquagium*, a tax on water carriage.
Examen, the process of assaying money.
Excidentia, escheats.
Exculsus, hatched.
Exhaeredare, to dispossess of an inheritance.
Exitus, outgoings; also, issue, descendants.

Exlex, an outlaw (p. 235).
Exorbitare, to go beyond bounds.
Expeditatio, the mutilation of dogs, by cutting their claws so as to prevent them from being used in hunting.
Expeditio, the duty of military service, incumbent on all owners of land, = *fyrd*.
Extraneus, a stranger.

F

Falco, a falcon.
Falconarius, a falconer.
Falsarius, a forger or depraver of the coinage.
Falsonarius, a forger; (p. 256) a forger of charters especially.
Falsoneria, forgery of coin or charters.
Felonia, felony.
Feodatarius, a feudal dependant.
Feodi-firma, fee farm, freehold held at an annual rent.
Feodum, Feodus, Feudum, a fief, an estate held by tenure from a superior lord; a fee, in the modern sense of a payment as *honorarium*.
Feoffamentum, feoffment, the act of conveying an estate in fee.
Feoffator, a feoffor.
Feoffatus, a feoffee, the person receiving or holding such an estate.
Feonatio, the fawning time. Old Fr. *foinesun*. Med. Lat. *fannatio*.
Feorm-fultum, payments in kind, to the king or another lord, from a tenant.
Feos-bot, (p. 86) amendment of the coinage.
Ferdingus, the holder of the fourth part of a virgate.
Feria, a fair, also a day of the week; *feria prima* = Sunday; *feria secunda* = Monday.
Feudatus, in possession of a fief.
Fidejussio, security.
Fidelitas, fealty.
Filare, to file, to string on a thread; see **Affilare**.
Filum, the thread or course of a stream.
Finis, a payment made to procure the end of a lawsuit or immunity from molestation, and in that sense a fine; not a mulct by way of punishment. Compare our *fines* upon leases. Also = *finalis concordia*, a composition or compromise, to end a law-suit, made in the Curia Regis and recorded on the rolls of the court.
Firma, ferm or farm; a fixed sum or rent payable by way of composition; the profits of the county jurisdictions let at fixed sums to the sheriffs.
Firmarius, a person who fermed, compounded by an annual fixed payment for the revenues of his official position.
Fiscus, the Exchequer; revenue in general.
Flyma, a runaway.
Flymanafeormthe, harbouring of outlaws.
Folgare, to follow. Germ. *folgen*.
Folgarius, a follower. Germ. *Folger*.
Folkes-mote, meeting of the folk or people in the shiremoot.
Folk-right, the customary law of the land.
Fore-oath, the oath taken by plaintiff and defendant at the beginning of a suit.
Foresta, forest. Germ. *Forst*.

Forestel, Forsteal, (1) hindering the pursuit of a criminal, (2) an assault on the king's highway.
Forisfacere, to transgress; to forfeit.
Forisfactura, forfeiture.
Forstallatio, obstruction or hindrance; from *fore* and *stellan*; see **Forestel.**
Fortitudo, force.
Forulus, forel, a leather case for holding money or charters.
Fossatum, a ditch.
Francus, a freeman, a freeholder.
Francus-plegius, a frank-pledge; a member of a tithing group.
Francus-tenens, a freeholder; generally a tenant in socage.
Friborg, less correctly **Frithborg,** surety for the keeping of the peace; **Friborga,** an association of ten men for mutual security = frank-pledge; **Friborgus,** a member of such an association.
Friborg-heved, the head of a frank-pledge.
Frith, peace.
Frith-bot, Frithesbot, maintenance of the peace, payment to atone for breach of peace.
Frith-bryce, breach of the peace.
Frith-gegildas, members of an association for mutual protection.
Fugare, to course.
Fugatio, right of coursing.
Fundus, the soil: often = *feodus.*
Furca, the gallows.
Furnum, an oven.
Furragium, provender. From *furrare,* to forage. Goth. *fodr.*
Fyrd, *expeditio*; the duty of military service for the defence of the country.
Fyrdung, Fierdfare, the going on the fyrd; also the fine for neglect of fyrd-service.
Fyrdwite, the penalty for neglecting the fyrd.

G

Gablum, rent; from A. S. *gafol.*
Gafol, rent.
Gaiola, a prison, a gaol. Fr. *geôle*; from the Lat. *caveola.*
Garantum, a warranty.
Garba, a trave of corn. Old High Germ. Fr. *gerbe.*
Gebur, a dependent cultivator of the soil.
Geldare, to pay tax.
Geldum, Gildum, a tax of any sort. Germ. *Geld.*
Gemot, a meeting.
Geneat, a dependent cultivator of the soil.
Geneatland, land cultivated by geneats. See p. 89 for a description of the tenure.
Gersuma, a customary gift or payment.
Gesith, a free follower, a war-companion, bound by oath to his lord.
Gesithcund man, one who belongs by birth to the class of gesiths; in the West Saxon laws appears to be of the same dignity as the eorlcund man of the Kentish laws.
Gewitenemot, = witenagemot.
Gieresgieve, the same as **Yeresyeve,** a payment made by burgesses to a royal official.

Gild = wer-gild.

Gilda, Gylda, a voluntary association for mutual protection, for common mercantile aims, or for religious worship.

Gildwite, (p. 307) probably a miswriting for **childwite.**

Gisarma, a halbard.

Grangia, a granary, thence a grange, a farm-house.

Grantum, security given.

Gravamen, a grievance.

Gravare, to aggrieve.

Gravio = reeve, sheriff.

Gregarius, *miles gregarius* seems to mean a knight employed properly in military command, as contrasted with one who merely holds a knight's fee in land.

Grith, immunity from molestation; special *frith* or peace, usually that granted by the king.

Guerra, Gwerra, war. Also = wer-gild (p. 260).

Gwerrina, in a state of war.

H

Haia, a hedge. Fr. *haie*; Old High Germ. *haga*.

Halbergettus, the material of which the common hauberk was made.

Halibergeun, Haubergeon, a light hauberk or mail coat.

Halimotum, the hall-moot, the local court of a franchise.

Hamsocn, breaking into a man's house.

Hangewitha, a fine for letting a guilty person escape (see 'Leges Willelmi,' i. 4, in Matzke, *Lois de Guillaume,* p. 6).

Hansa, a trade guild.

Hanshus, the hall where the hansa or guild met.

Haracia, a stud of horses. Fr. *haras*.

Haubio, Hauberio, a hauberk.

Healsfang, the tenth part of the wergeld; paid to the nearest relatives of the slain man, while the remainder was divided between all the kindred.

Heinfare, Hamfare, a breach of peace by forcibly entering a man's house.

Heorthfest, having a fixed hearth or dwelling.

Herbagium, herbage.

Heriot, Heriet, a heriot; from *here-geat,* the military equipment of a vassal, which on his death reverted to his lord. In the later laws the heriot is often Latinized, as *relevium*; but properly it differed from the relief, which was the payment made by the heir to secure the possession of his inheritance.

Heyrinus, a heron.

Hida, a hide of land; originally the land of one family, the estate of the typical householder. Later is a measure of arable land, = 120 acres. For fiscal purposes the shire, the hundred, the township were rated at an arbitrary number of hides, which seldom represented their true acreage.

Hlafordsokna, (p. 75) the right of the freeman to choose his own lord; hence the jurisdiction of the lord over his men.

Hlafordswike, treason of a man against his lord.

Hlobe, see **Lot.**

Hokeday, the second Tuesday after Easter.

Hold, a Danish noble.

Homagium, homage, the process of acknowledging oneself the *homo* or vassal of a feudal superior.

Hominium, homage.
Homo, generally a vassal.
Honor, a barony, a great estate held immediately from the Crown by military tenure.
Horn-gelth, a tax upon horned cattle, cornage.
Hornus, of this year; applied to a hawk that has not moulted.
Hospitare, to entertain.
Hospitatus, inhabited.
Hostiarius, = *ostiarius*, a door-keeper, an usher. Fr. *huissier*.
Hosticum, the army, the host; also a military expedition.
Hostium, = *ostium*, a door.
Hundredarius, the hundred-man, the bailiff of the hundred.
Hundredum, Hundredus, Hundretum, Hundret, the local division called the hundred; frequently also the hundred court.
Husting, Hustenge, Hustingus, the court of a borough; from Old N. *hús*, a house, and *thing*, an assembly.
Huthesia, Hutesium, hue and cry made after criminals.
Hyda, a hide of land; see **Hida**.
Hydagium, a tax imposed at so much a hide.
Hynde, the number ten.
Hynden, an association of ten men in a frith-gild.
Hyndenman, the head man over ten hyndens.

I

Imbreviare, to register.
Imbrochiare, to tap a barrel, to broach a cask.
Impetrare, to obtain by application, generally used of a writ or papal bull.
Implacitare, to implead, to bring an action against.
Imprisonamentum, imprisonment.
Imprisonare, to imprison.
Incaustum, ink. From the Greek ἔγκαυστον.
Incrementum, increase of profit over ferm-rent.
Indictamentum, indictment.
Infangentheof, jurisdiction over a thief caught within the limit of the estate to which the right belonged.
Infeodare, to enfeof.
Ingenium, a contrivance; '*malum ingenium*,' trickery, evasion of obligations.
Ingravare, to burden.
Inland, '*terra dominicalis*,' the demesne. Or possibly, as opposed to *soke land*, = land over which the lord has proprietary rights (*Eng. Hist. Rev.* XXVII, p. 24).
Instauramentum, the stocking of a farm.
Instaurare, to stock a farm.
Interciare, to demand warranty of a person in whose hands stolen property is found. Old Fr. *entiercer*.
Interprisa, a usurpation.
Intromittere (*se*), to meddle with.
Invadiare, to put in pledge for a loan, to mortgage.
Invenire, to find, in the sense of to furnish.
Irritare, to annul, make void.
Irrotulamentum, enrolment.
Irrotulare, to enrol.

J

Jieresgieve, = **gieresgive**.
Jocalia, jewels. Fr. *joyau* = *jocale*.
Judicium, (pp. 100, 179) the ordeal.
Jugiter, continually.
Juisa, the ordeal. Lat. *Justicia*.
Jurata, a jury.
Justitia, = *justitiarius*, a justice or judge.
Justitiabilis, amenable to jurisdiction.
Justitiare, to bring to justice.

K

Kalendarium, a kalendar, a list of agenda.
Kidellus, Kydellus, a weir.

L

Laga, law. Icelandic, *lög*.
Lagan, the right to matters thrown up by the sea, lying on the shore.
Lageman, a person possessing a certain jurisdiction in the Danelaw.
Lanutus, woolly; *pellis lanuta*, a wool-fell.
Lardarium, a larder.
Legalis, lawful; *legalis homo*, a man possessed of all the rights of a freeman.
Leod, the people. Germ. *Leute*.
Leporarius, a harrier.
Lesta, lading, a last, a weight of leather and other substances.
Lestagium, a custom exacted on a ship's lading.
Lesth, lading.
Leuca, a measure of 1500 paces; later, a league.
Leue, = *leva*, an exaction, or compulsory gift to the magistrate, like *scotale*.
Leugata, the territory surrounding a town, over which the jurisdiction of the town-court extends.
Lex, used in the technical sense of judicial proof by compurgation, ordeal, or combat; so also *lex terrae*.
Libera custodia, honourable detention.
Liberare, to deliver.
Liberatio, a delivering; hence the thing delivered, equipment, livery.
Libra, a pound.
Librata, an estate in land worth a pound a year.
Licentiare, to dismiss.
Liesing, the Danish freedman.
Ligantia, allegiance.
Ligius, liege, *ligius dominus*, the lord to whom the oath of fealty was taken *contra omnes homines* without exception.
Lingua, tongue, nation.
Lista, the selvage or listing of cloth.
Locus a majori, the argument *a fortiori*.
Loquela, a legal claim.
Lorica, a coat of mail, as worn by a knight; *per loricam terras deservire*, to hold lands by military service.
Lot, the share of taxation imposed upon an individual payer towards making up the aggregate required of the community.

M

Maeg-burg, the kindred.
Maironia, timber, = **meremium**.
Major, (p. 323) of age, twenty-one years old; (p. 311) the mayor of a community.
Malatolta, Malatollia, the unjust custom on wool, the evil *tolta* or tax; *tolta* is a rude participle from *tollo*, to take as toll.
Malefactio, (p. 258) a misdoing; in this place the stolen property.
Mancus, an Old English monetary unit, = 30 pence.
Maneries, manner, sort.
Manerium, a manor.
Mansio, a dwelling-house; a manor.
Manung, the district or population under the jurisdiction of a reeve. A. S. *amanian*, to exact.
Manuopere, with the hand in the act; cf. Germ. *hand-habend*, in possession of stolen goods.
Manutenere, to maintain.
Marca, a mark, 8 ounces, two-thirds of a pound; the mark of silver is 13*s.* 4*d.*; the mark of gold is six pounds sterling.
Marcandisa, merchandise.
Marescallus, a marshal, the ancient hors-thegn; from *mar*, horse, *scalc*, servant.
Maritagium, the right of bestowing in marriage a feudal dependant; also the marriage portion which a wife brings to her husband.
Maritare, to give in marriage.
Maritatio, the act of giving in marriage; the right of doing so.
Marka, a mark.
Marlera, a marl-pit.
Martrinus, Martrinis, belonging to a marten.
Mass-thegn, a priest holding thegn's rank.
Mastivus, a mastiff.
Matutinae, the service called matins.
Medial thane, a thane of inferior dignity or wealth.
Mediatus, mesne; *mediatus dominus*, a mesne lord.
Merca, a mark, or boundary.
Mercandisa, Mercandia, trade, commerce.
Mercarius, of merchants.
Mercata, the quantity of land which is worth a mark (13*s.* 4*d.*) a year.
Mercatum, a market.
Merchet, the sum paid by a villein to his lord for leave to give his daughter in marriage.
Meremium, Meremum, timber; *materiamen*, DUCANGE.
Mesuagium, a house and ground.
Methel, an assembly, = *mallus*, or gemot.
Miles, a knight; **Militia**, the rank of knighthood.
Millarium, a sum of a thousand.
Minorare, to diminish.
Minutus, mean or small.
Misa, a capitulation.
Misericordia, mercy, a mulct at discretion: to be at the king's mercy was to lie in such a position that the king might either exercise the right of complete forfeiture or accept a fine in commutation.

Miskenning, Mescheninga, a penalty for a mistake in repeating the set formula in which a litigant was expected to state his case.
Modernus, of the present day; from *modo*, now.
Molinus, a mill.
Monetagium, mintage, a payment by the moneyers for the privilege of coining; otherwise explained as a payment by the subjects to prevent loss by the depreciation or change of coinage.
Monetarius, a moneyer, a person empowered to coin.
Mortuarium, a mortuary fee.
Mund-bryce, violation of the king's special protection.
Muratus, walled.
Murdrator, a murderer.
Murdrum, secret homicide; sometimes the penalty paid by the district in which a murdered person is found (see p. 219); wilful murder.
Mutatorium, a change (of raiment).
Mutatus, changed; applied to a hawk that has moulted; hence the word mews.

N

Namiare, to distrain.
Namium, Namum, distress, seizure; the thing taken by distress, = *districtio*. Germ. *nehmen*, to take.
Nativus, a neif, or person born in villein status.
Nithing, a worthless person.
Nocumentum, a nuisance.
Nundinae, a fair.
Nundinarius, having a fair.

O

Oblata, offerings.
Obolus, a halfpenny.
Obventiones, sums of money received.
Occasio, an excuse.
Occatio, a clearing in a forest.
Occasionare, to molest, to spoil.
Occasiuncula, a mean excuse.
Oeconomus, a steward.
Oferhyrnes, contempt, disobedience; commonly the penalty of contempt of a royal command.
Oppidanus, a castellan.
Ora, a monetary unit, the eighth part of a mark; sometimes reckoned at twenty pence, sometimes at sixteen.
Ortillus, the toe of a dog's foot.
Otiosa animalia, beasts not used for ploughing, but for breeding, milking, and carrying.

P

Pacabilis, payable; applied to a beast that is a lawful tender in payment in kind.
Pacatio, respite (p. 376).
Palefridus, a horse. Med. Lat. *paraveredus*.
Pannagium, the privilege of feeding swine in the woods. Old Fr. *pasnage*, pasture; from *pastinaticum*, a derivative from *pastionem*.

Parlamentum, Parliamentum, parliament: = *colloquium*, from *paraboiare*, to speak; whence Fr. *parole* and *parler*.
Parliamentatio, parliamentary discussion.
Parochianus, a parishioner.
Passagium, a voyage; a toll upon passengers or goods.
Pecunia, money or stock: *pecunia viva,* live stock.
Pedo, a foot-soldier.
Pelota, the ball of the foot of a dog.
Pensum, weight, as opposed to *scala*, rate.
Percognitio, a recognition; see **Recognitio.**
Percussura, coining.
Perdonum, pardon, remission of payment.
Peregrinatio, pilgrimage.
Perire, (p. 179) to fail in the ordeal.
Perquirere, to acquire, to purchase; (p. 165) to seek or contrive.
Perquisitio, acquisition.
Persolta, = *per-soluta*; a compensatory payment to the victim of a theft.
Persona, a beneficed clergyman.
Pertica, a perch, a measure of land.
Pilatus, O. French *pile*, a bolt for shooting.
Pilleus, a cap.
Pincerna, a butler.
Placitum, a plea, a lawsuit.
Plegium, a surety, the condition of a surety.
Plegius, a surety, a person pledging himself for the appearance of another.
Port, (p. 74) a market town.
Pontagium, bridge-toll.
Portreeve, the chief magistrate of a port, or mercantile town.
Portsocha, Portsoka, the jurisdiction of a chartered borough.
Praebenda, (p. 215) provender; (p. 358) a prebend in a cathedral or college.
Praecipe, the writ; a writ for removing to the King's court a suit which has been started in a private court.
Praeconarius, belonging to a crier.
Praelatio, superior dignity (p. 234).
Praemunire, to premonish.
Praemunitio, a premonition.
Praepositura, office of reeve.
Praepositus, = reeve.
Praesentatio, the right of nominating a clerk to a benefice; *assisa de ultima praesentatione*, the assize of Darrein Presentment, a process for determining who is the lawful possessor of the patronage of a benefice.
Praestatio, a payment.
Praetaxare, to define beforehand.
Praevaricare, to break or evade an obligation.
Prindere, to take; a form of *prehendere*.
Prisa, a taking, an exaction.
Priso, a prisoner.
Prisona, a prison.
Probator, an approver, king's evidence.
Procurator, a proctor, the person who holds a proxy.

Procuratorius, conveying delegated power: *procuratoriae litterae,* letters of proxy.
Proficuum, profit.
Prolongare, to remove, to dispossess by delaying seisin.
Prosolta, = *pro-soluta,* payment in compensation.
Protojustitiarius, the Chief Justice.
Providentia, (p. 332) a provision or ordinance.
Publicatus, notorious by report.
Purprestura, Proprestura, an encroachment on royal land.
Purpunctus, Purpoint, a sword-proof or spear-proof coat.

Q

Quarterium, a quarter, a measure of capacity.
Quietantia, quittance.
Quietum clamare, to quit-claim, release from obligation.
Quindena, a *quinzaine,* a day over the fortnight.
Quinquagenarius, a captain of fifty, used figuratively with reference to 2 Kings i.

R

Ran, = *raven,* rapine.
Recautum, a counter tally; see **Contra-talea,** a security; from *re-caveo.*
Recepta, receipt.
Recidivare, to relapse.
Recognitio, an inquest by oath of twelve men, under the system of assize; (p. 163) a declaratory statement of the law.
Recognoscens, a person acknowledging his offence.
Recordum, Recordatio, a record.
Rectare, see **Rettare.**
Rectitudo, right.
Redemptio, ransom.
Redimere, to redeem; (p. 244) to compel to redeem.
Regratarius, a retailer who buys goods in order to sell them again at a higher price.
Reguardor, a person acting as visitor in a reguard.
Reguardum, Reguarda, a visitation of the forests.
Rehabere, to recover possession.
Relevare, to relieve, to take up an inheritance by payment of relief.
Relevatio, the act of relieving; the relief.
Relevium, the relief, the money paid by the incoming heir for admission to his inheritance.
Remandare, to remand.
Rememorare, to regard, or to place in the *agenda* of parliament.
Renegator, a renegade, heretic (p. 173).
Replegiare, to remand under surety.
Respectus, respite.
Retare, Rettare, to accuse; from the Norse *rett,* an imputation or accusation: not connected with the Lat. *rectum,* although early confounded with it: hence the form *rectare* for *rettare.*
Retonsor, a clipper of coin.
Retta, Retum, Rettum, an accusation. Norse, *rett.*
Revelach, A. S. *reaflac,* theft; from *reafian,* to rob, to bereave.
Riparia, Rivaria, a river. Fr. *rivière.*

Robator, a robber. Germ. *Räuber*.
Roberia, robbery.
Rumbus, a turbot.
Runcinus, a horse.
Russettus, a common red cloth.
Rusticus, a native, a villein.
Ruttarius, a routier, a mercenary soldier. Low Lat. *ruptuarius*.

S

Sabbatum, Sabbati dies, Saturday.
Saca, Sacha, jurisdiction in matters of dispute.
Saisiare, Saisire, to seize, to take possession of. Old High Germ. *sazjan*.
Saisina, possession.
Salvagius, wild. Fr. *sauvage*, from *silvaticus*.
Scaccarium, the Exchequer.
Scala, scale, rate as opposed to weight. When payment was made *ad scalam* at the Exchequer, the debtor made an extra payment of 6*d.* in the pound, to cover any loss arising from wear of the coin.
Scannum, a bench; or the story of a building; *castellatio trium scannorum* probably means the building of a castle with three concentric earthworks.
Schedula, a schedule, list of articles.
Schira, Scira, a shire, = *comitatus*.
Schirereva, Scyr-gerefa, a sheriff: the king's representative in the shire, as the *praepositus* or *gerefa* (Ger. *Graf*; Engl. *reeve*) was in the township. Lat. *vicecomes*.
Schot, a tax generally; from *sceatta*, money.
Scir-gemot, Scyres-gemot, meeting of the shire; county court; *comitatus*.
Scirman, the headman of the shire, probably = sheriff.
Scot and lot, a traditional phrase to denote the rights and duties of a citizen. *Scot* may denote an assessment on a local community, *lot* the dues paid by the individual member.
Scotagium, = **scutagium**.
Scothala, Scotteshale, 'Public compotations at the charge of some for the benefit of others.' SPELMAN. 'Abuses put on the king's people by his officers, who invited them to drink ale and then made a collection, to the end they should not vex or inform against them for the crimes they had committed or should commit.' BRADY. A forced contribution levied on the pretence or occasion of a festivity.
Scrinium, a shrine.
Scriptorium, a writing-room.
Scutagium, a composition for knight-service, assessed on the knight's fee; later a tax assessed similarly, but granted by the Magnum Concilium.
Secta, (p. 390) suit, attendance at a court; (p. 258) suit, pursuit of the hue and cry.
Sectator, a suitor.
Seedlip, a measure of wheat; a seed basket.
Seisina, possession of land.
Senescallus, a steward, the senior *scalc* or servant in a household.
Septimana, a week. Fr. *semaine*.
Sequestrare, to separate litigants, to settle the matter between them; more commonly to sequestrate.

Sergantia, Sergantisa, Sergenteria, serjeanty, a tenure of land by peculiar service of special duty to the person of the lord.

Sermocinari, to preach.

Serrura, a lock. Fr. *serrure*; from Lat. *serare*.

Serviens, a serjeant; *serviens ad placita*, serjeant at pleas; *serviens ad arma*, serjeant at arms.

Sextarius, a measure of four gallons.

Sigillatim, one by one, individually.

Sithessocna, explained to mean the jurisdiction of a *gesith*, any private franchise; but the word occurs only in the form of *Sipesocna*, which has been understood to mean the district liable to furnish a ship to the king's fleet.

Soca, Socca, Socna, Soka, Soken, jurisdiction; a liberty, privilege, or franchise granted by the king to a subject; also the area within which that franchise is exercised.

Socagium, Sokagium, tenure of land on condition of fixed and determinate services, which usually take the form of rent. It is the name applied to any freehold which is held neither by military service, nor by serjeanty, nor in frank-almoin; 'the great residuary tenure.' MAITLAND.

Sochemannus, a man who is in the soc of a lord.

Solemnium, a solemnity.

Solidarius, a paid soldier.

Solidata, the quantity of land that is worth a shilling a year.

Solidus, a shilling. Fr. *sou*.

Sollagium, = *solagium*, an impost claimed by the lord of the soil, by way of ground rent.

Solta, = **soluta**, a payment (p. 161).

Sors, the principal of a debt (p. 234).

Speruarius, a sparrow-hawk. Fr. *épervier*.

Stabilitio, probably the duty of erecting the hunting-station of the king or lord of a forest, and otherwise providing for the carrying out of the hunt.

Stallagium, payment for having a stall in the market.

Staurare, to stock a farm.

Stengesdint, from *stenge* (A. S.), a pole, and *dingan*, to strike: sense obscure.

Sterilensis, Sterlingus, sterling; lawful and current money of England.

Stipendiarius, a mercenary soldier.

Strata, street.

Stretbreche, destruction of the king's highway.

Suanimotum, an assembly of the freemen in the forest to make administrative arrangements, e. g. about the pasturing of cattle.

Subclamator, a sub-crier, of parliament.

Subdisjunctive = with a weakened disjunctive sense (p. 226).

Submonire, to summon.

Sumagium, (p. 347) a burden; from *summa*, Fr. *somme*, Med. Lat. *salma* = *sagma*; Ger. *Saum*, in *Saumthier*.

Summagium, (p. 198) a team of beasts of burden.

Summarius, a beast of burden; a sumpter-horse.

Summonere, to summon.

Summonitio, a summons.

Supersedere, to treat as superfluous.

T

Tachiamentum, an arrest.

Tailagium, Taylagium, Tallagium, Talliagium, a tax, from Med. Lat. *taillare*, Fr. *tailler*, to tax; specially a talliage, an aid demandable of demesne lands at the will of the lord.

Tailliare, Tailleare, Talliare, to tax or talliage.

Talea, Tallia, Taleola, a tally, a long piece of wood on which the sums received at the Exchequer were notched; the tally being then split, and half kept by the court, half by the payer, so that each was a check on the other.

Tannator, a tanner.

Taxare, (p. 226) to assess.

Team, Theam, Them, Theim, the right of compelling the person in whose hands stolen or lost property was found to vouch to warranty, that is, to name the person from whom he received it.

Tenementum, a holding, an estate held feudally.

Ten-manne-tale properly means the holding of ten men, and is synonymous with *tenman land*. It is erroneously applied in the *Leges Edwardi* to the frank-pledge tithing; and in Hoveden (p. 247) is used as equivalent to Danegeld (see Vinogradoff, *English Society*, p. 103).

Tenseria, Tenserie, an unlawful impost.

Tenura, the mode of holding an estate feudally; the holding itself.

Terminus, a term of years, a lease (p. 451).

Testimonium, (p. 172) character; attestation.

Thegn, Thegen, Tein, Thaynus, Tainus, a thegn, or thane; originally a servant, especially an armed servant; then one who becomes noble by serving the king in arms; the possessor of five hides of land. The thegn before the Conquest occupied nearly the same position socially as the knight after it. (Lat. *minister*.)

Theoden, a lord, as opposed to *Thegen*, a servant.

Theofgyld, money paid in compensation for robbery.

Thing, a law-court.

Thingemannus, a Danish soldier, perhaps = *huscarl*.

Thrymsa, a coin worth three pence Mercian.

Timbre, a bundle of skins.

Tithing, Tethinga, a union of ten freemen for mutual security; or in some parts of England, a township, a village community.

Tithingman, the head of a tithing.

Tol, Thol, Toll, Theloneum, Thelonium, Telonium, Toloneum, Theoloneum, duty on imports.

Tolta, a tax; from *tollo*, to raise by taxation.

Tradux, inheritance, (p. 216).

Trespas, a fine for trespass.

Trethingius, a third part of a county, a riding.

Treuga, a truce.

Tuguria, cottages.

Tun-grevius, the reeve of a township, *praepositus villatae*.

Turniare, to attend a tournament.

Turnus, the tourn or periodical court of the sheriff.

Twyhynde, a man whose wer-gild was 200 shillings. The *twelf-hynde* man's was worth 1200.

Tyenthe-heved, the head of a frank-pledge of ten men.

Tyhtbysig, of bad reputation; *tihtle*, accusation, and *bysig*, implicated. THORPE.

U

Ulna, an ell.
Ultroneus, self-imposed.
Unfrith, state of being out of the king's peace.
Usurare, to bear interest.
Uthesium, hue and cry ; see **Hutesium**.
Utlagare, to outlaw ; **Utlagatus**, outlawed.
Utlagia, outlawry.
Utlagus, **Utlagh**, **Utlagatus**, an outlaw.
Utware, service.

V

Vadimonium, property held in gage or pledge.
Vadium, a surety, gage, bond ; wages ; *ad remanens*, security for future good behaviour.
Vaivus, a waif, a vagabond.
Valentia, value.
Vastus, waste ; i. e. destruction of the natural resources (timber, stone, &c.) of an estate. Cf. Old Fr. *guaster*, Fr. *gâter*, to spoil.
Vavassor, an inferior baron, or vassal holding of a baron.
Venatio, privilege of hunting, venison.
Veredictum, verdict.
Vicarius, a deputy.
Vicecomes, a sheriff. The word used after the Conquest to describe the *scyr-gerefa* ; probably because the duties of the Norman *vicecomes* corresponded with those of the English sheriff. The latter, however, was a royal officer, and not the substitute for the earl or *comes* ; but an earl was sometimes hereditary *vicecomes* of his shire.
Vicedominus, the deputy of a lord.
Vicinetum, **Vicinia**, **Visinetum**, **Visnetum**, the neighbourhood, the *venue*.
Vigena, a score.
Villa, a town ; *villa mercata*, a market town.
Villanus, a villein ; see **Nativus**, **Rusticus**, **Ceorl**.
Villata, a township.
Villenagium, villein tenure : state of villenage.
Villula, a village ; *villula nundinaria*, a village that has the privilege of holding a fair.
Virgata, the fourth part of a hide of arable land ; about thirty acres ; the normal holding of a villein.
Viridarius, a verderer.
Viridis, the privilege of using the wood in the forest ; *vert*.
Visus, view ; *per visum ecclesiae*, under the supervision of the Church.
Vivarium, a fish-pond.

W

Wambais, a *gambeçon*, a quilted coat or tunic.
Wannagium, **Waynagium**, **Wainnagium**, tillage (cf. Old French *gagnage*) ; also the plough-team (p. 296 ; cf. p. 239).
Wapentaccus, **Wapentakius**, **Wapentagium**, a wapentake ; the name of the hundred in the Danelagh.
Warantia, warranty.
Warantizare, to guarantee, to authorize.

Warantum, a warrant, a warranty.
Warantus, a warrantor.
Warda, pupillage, wardship; an estate held by the lord in wardship.
Warde-motum, misreading for *vadimonia* in some texts of the charter of Henry I to London.
Warennarius, a warrener.
Warennia, Warenna, a rabbit warren.
Warnistura, garnishing.
Wedd, a pledge or gage, = vadium.
Wer, the pecuniary estimation of a man, by which the value of his oath and the payment for his death were determined.
Wer-gild, the payment for the slaying of a man.
Werra, war.
Widrigildum, a Frank word, meaning probably the same as *bot* or compensation, and distinguished by Grimm from the wergild.
Witan, wise men, *sapientes*.
Wite, Wita, a mulct, a payment by way of punishment, opposed to *bot*, which is compensation to the injured.
Witena-gemot, meeting of the wise men.
Wrec, wreck.

X

Xenium, a present; more commonly written *exenium*. From the Greek.

Y

Yeresgieve, Yeresyeve, see **Gieresgieve**.

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Caesar.

Where diverge but not same chance as Tacitus

1. Not writing about same Germans.
2. Caesar didn't see much of Germans. Tacitus, time has evidence.
3. Caesar's evidence is partial. Only those who took most forward. People depend on him. Not typical. Overemphasis the wildest parts. Only sees the fighting band.

Tacitus.

Generalisations at late date.

1. People not exclusively tribes. Some quite settled
2. Germany quiet. Roman strong frontier. Simples die down. Frontier quiet: more settled. Learnt something from Romans.
3. T. v C. agree in essentials. T. evidence fight-ier, so more general.